JEREMIAH W. BALIK
1223 Wilshire Blvd., #777
Santa Monica, CA 90403
(424) 280-2981 Fax: (805) 642-7177
shteren.entertainment@gmail.com
https://twitter.com/AppDrivenToys

ADR

NORTHERN DISTRICT OF COURT SAN JOSE CALIFORNIA

E-FILING

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CV 16 4070

CIVIL RIGHTS COMPLAINT UNDER 42

U.S. CODE § 1983 & 1985 - CIVIL

ACTION FOR DEPRIVATION OF RIGHTS &

JEREMIAH W. BALIK,

Plaintiff,

VS.

In Pro Per

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CITY OF CEDAR FALLS, CITY OF SAN

JOSE, LOS ANGELES COUNTY SHERIFF'S) 18 U.S. CODE § 1512

DEPT, SANTA BARBARA COUNTY

SHERIFF'S DEPT, CITY OF VENTURA,

CITY OF SANTA CLARA, SAN DIEGO

SHERIFF, NEXT GENERATION WIRELESS

Defendants.

{WILL TAKE THIS MATTER ALL THE WAY TO THE SUPREME COURT TO PREVAIL}

DATE:

TIME:

DEPT:

### JURISDICTION

This court has jurisdiction under section 1983 pursuant to two statutory provisions: 28 U.S.C.A. § 1343 and 28 U.S.C.A § 1331. Federal Question Jurisdiction arises pursuant to 42 U.S. Code § 1983, 4th & 14th Amendments, 18 U.S. Code § 1512 - Obstruction of Justice, 28 U.S. Code § 1332; Diversity Jurisdiction. The district courts shall have original jurisdiction of all civil actions where the

matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between (1) citizens of different states. Plaintiff believes he cannot get a fair trial in Iowa or Los Angeles [Central District of California] per CCP § 397; When there is reason to believe that an impartial trial cannot be heard.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the

(R.S. §1979; Pub. L. 96-170, §1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104-317, title III, §309(c), Oct. 19, 1996, 110 Stat. 3853.)

### **VENUE**

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1. Venue is proper pursuant to 28 U.S.C. § 1391 because Defendant lives in this district. Plaintiff is litigating case #15cv-04556-JST in Northern District, San Francisco Division.

### PARTIES

- 3. Plaintiff, Jeremiah W. Balik, mailing address at 1223 Wilshire Blvd, #777, Santa Monica, CA 90403 (650) 248-5832 Resides in Santa Barbara, CA. Plaintiff formerly at 1220 Rosecrans, #423, San Diego 92106
- Defendants, CITY OF CEDAR FALLS, IOWA, 220 Clay Street, Cedar Falls, Iowa 50613 (319) 273-8600, CITY OF SAN JOSE, CALIFORNIA, 200 E. Santa Clara St, San Jose, CA 95113, (408)535-3500, CITY OF VENTURA, CALIFORNIA 501 Poli Street, Ventura, CA 93001 (805)654-7800, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, Hall of Justice, 211 West Temple Street, Los Angeles, CA 90012 (213)229-1700, SANTA BARBARA COUNTY SHERIFF'S DEPARTMENT, 4434 Calle Real, Santa Barbara, CA 93110 (805) 681-4100 CITY OF SANTA CLARA, CA City of Santa Clara, 1500 Warburton Avenue, Santa Clara, CA 9505, SAN DIEGO COUNTY SHERIFF'S DEPARTMENT, John F. Duffy Administrative Center, 9621 Ridgehaven Ct., San Diego, CA 92123 (858) 974-2222 NEXT GENERATION WIRELESS, 1513 Flammang Dr Waterloo, IA 50702-4371, 319-226-3500

### CAUSE OF ACTION

 42 USCS § 1983 In order to state claim for deprivation of rights under 42 USCS § 1983, plaintiff must show that (1) conduct complained of was committed by Defendants acting under color of law; (2) defendants' conduct in fact deprived them of rights, privileges or immunities secured by Constitution or laws of United States; (3) defendants' conduct caused deprivation of federal constitutional rights; and (4) defendants' conduct must have been intentional, grossly negligent, or must have amounted to reckless or callous indifference to constitutional rights of others. Neris v Vivoni (2003, DC Puerto Rico) 249 F Supp 2d 146.

"First Cause of Action" for "Civil Rights Violations" and a "Second Cause of Action" for "intentional infliction of emotional distress." unlawful arrest, conspiracy, and intentional infliction of emotional distress.

- (1) unlawful search, in violation of the fourth amendment;
- (2) unlawful seizure, in violation of the fourth amendment;
- [445] (3) arbitrary arrest and incarceration, in violation of the fifth and fourteenth amendments;
- (4) excessive force in effecting arrest, in violation of the  $\underline{\text{fifth}}$  amendment;
- (5) denial of due process, in violation of the <u>fifth</u> and <u>fourteenth</u> amendments; and
- (6) civil conspiracy, in violation of Section 1985.

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A state is not a "person" under section 1983, but a city is a person under the law(Will v. Michigan Department of State Police, 491 U.S. 5 8, 109 S. Ct. 2304, 105 L.Ed. 2d 45 [1989]).

The elements of a Section 1983 case are "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" by a "person"/5/ acting "under color" of state law. The "laws" referred to include those statutes that confer individual rights on a class of persons that include the plaintiff.

### 5.1.A.2.a. Under Color of State Law

State and local officials can interfere with federal rights in two distinct ways. By enforcing state laws or policies that conflict with federal law, state and local officials deprive their victims of federal rights. In such a case, the public officials obviously act under "color of state law."/92/ State and local officials can also interfere with federally-protected rights by misusing power entrusted to them under state law. In such a case, the official acts under color of state law only at those times he or she is "clothed with the authority of state law."

6. Cause of Action 1. Discrimination - Unruh Civil Rights Act (Civ. Code, §§ 51, 52) - Essential Factual Elements -- Racial

discrimination claim under § 703(a)(1) of Title VII of the Civil Rights Act of 1964, 42 U.S.C.S. § 2000e-2(a)(1).

Plaintiff claims that Defendant denied him full and equal accommodations/privileges/services because of his race/color.

- 1. Defendant denied/aided or incited a denial of/discriminated or made a distinction that denied full and equal [accommodations//privileges/ services to plaintiff;
- 2.A motivating reason for *defendants* conduct was its perception of *Plaintiff'*'s race/color/

That the race/color/religion/ancestry/national origin/of a person whom *plaintiff*] was associated with was a motivating reason for *defendant*]'s conduct;]

- 3. Plaintiff was harmed; and
- 4. That Defendants conduct was a substantial factor in causing Plaintiff's harm.
- 5. §17200 Unfair Business Act or Practice & Breach of Implied Covenant of Faith & Fair Dealing

Case and law enforcement involvement ultimately implicate Mayor Rahm Emanuel/Chicago and US Congressman Fred Upton/ECC Chair - Michigan, 6<sup>th</sup> District. Ultimately over super model Samantha M. Hoopes. "Unlawful Patrolling" is a derivative of "profiling".

### FED RC 8 CLAIM

7. Per Rule 8. General Rules of Pleading, Plaintiff's Civil Rights were deprived by Defendants; Defendants subjected the plaintiff to conduct that occurred under color of state

law,

and this conduct deprived the plaintiff of rights, privileges, and im munities guaranteed under federal law or the U.S. Constitution Plaintiff's deprivation of Due Process and applicable State/Federal laws/statues caused very serious harm. The Defendants conduct was a substantial factor in causing Plaintiff's harm. Plaintiff is entitled to relief as a result of Defendant's serious misconduct. Plaintiff is seeking \$10,723,000.00 [million dollars] and any other awards/damages the court sees fit.

STATEMENT OF FACTS/COUNTS

- 8. Plaintiff is bringing a civil rights complaint against CITY OF CEDAR FALLS, CITY OF SAN JOSE, LOS ANGELES COUNTY SHERIFF'S DEPT, CITY OF VENTURA, CITY OF SANTA CLARA, and NEXT GENERATION WIRELESS.
- 9. City of Cedar Falls Cedar Falls, IA Police Dept., Incident# 14-37725 and Cedar Rapids, IA PD

Plaintiff applied for a technical sales position with Next Generation Wireless in Cedar Falls, IA. Next Generation wireless is an authorized US Cellular agent. [Note: Next Generation Wireless may have or does handle accounts for the City of Cedar Falls and Cedar Falls Police Dept] See Case instant case No.: 16-CV-1106 WQH-BGS, Southern District of California Information incorporated herein. Plaintiff dealt primarily with sales director Nicole Knebel. Plaintiff sent

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Nicole appropriate emails, reached out via phone calls [ordinary, reasonable amount] and sent some post cards. Plaintiff also stopped by the Next Generation Wireless's office in Cedar Falls, IA once. Plaintiff did nothing out of the ordinary with job pursuit with Next Generation Wireless. Plaintiff was arrested by Cedar Rapids, Iowa Police on behalf of Cedar Falls Police Dept., on or about 8:00 PM, April 28th, 2014 Plaintiff spent the night in jail in Cedar Rapids, IA and most of the day. Plaintiff was then transferred to Cedar Falls, IA jail around 6:00 PM on April 29th, 2014 and spent another night in jail. Throughout the process; charges were not properly explained. Plaintiff had an arraignment the following day, on April  $30^{th}$ , 2014 in the morning for 3<sup>rd</sup> degree Harassment pursuant to Iowa Code § 708.7 a simple misdemeanor. Plaintiff was released after hearing. Documents attached hereto as Plaintiff's was unlawfully searched, unlawfully arrested, unlawfully detained and deprived due process rights per the  $14^{\rm th}$  Amendment no state can "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Plaintiff's 4th Amendment's were also deprived The Fourth Amendment of the U.S. Constitution provides, "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing

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the place to be searched, and the persons or things to be seized."

Plaintiff was never shown a proper warrant; nor did Cedar Rapids,

Iowa Police officers fully explain charges. This incident is a true

travesty of justice - all of this over the pursuit of a job.

10. City of San Jose - San Jose PD, Internal Affairs Investigation #I2016-0098

City of San Jose Police Dept., has engaged in repeated patterns of unlawful patrolling over a 12 month period. Police Unlawful patrolling consists of getting the location [e.g. vehicle] of someone's whereabouts via Location Base Services or LBS, GPS and or installed tracking device. [Scorpion technology per FBI, triangulation via wireless cell phone provider]; then patrolling around vehicle with a "show of presence". Tactic is meant to be used as a deterrent [E.g. NYPD patrolling around suspected terrorist to act as deterrent. Or NYPD beefing up police presence, to act as a deterrent] The patrolling is unlawful, because there is no sufficient probable cause to do. Plaintiff alleges, unlawful patrolling was done as a favor to conspirators Mayor Rahm Emanuel and US Congressman Fred Upton Et al to be a deterrent to stop pursuing then girlfriend, super model Samantha Hoopes. See Balik vs Half Moon Hotel, #15cv02604, Santa Barbara Superior Court. Premise of case, iPhone charger was stolen out of Plaintiff's room. A charger is a vital communication piece; without it, one cannot power phone and thus communicate.

Plaintiff alleges conspirators had hotel employee or possible Los Angeles Police Dept., officer steal Plaintiff's iPhone charger to send message, to stop communicating with Samantha Hoopes. 3 4 Unlawful patrolling is abuse of power, violation of state and Federal 5 laws and statues and a waste of tax payer money. The culmination of 6 San Jose's repeated unlawful patrolling culminated on or about May 1st 7 at or around 8-8:30 PM. Plaintiff hit on-ramp to 85 South freeway noticed a San Jose PD patrol car unlawfully patrolling. Plaintiff 9 10 drove up to patrol car and flagged officer down. Officer and 11 Plaintiff pulled off to side of freeway. What ensued between Officer 12 Enterline #3821, Officer Kirby #3817 and Sergeant Jackson #3133 was a 13 major violation of Plaintiff's civil rights. Plaintiff gave the right for San Jose PD to search vehicle, even though Plaintiff stated it 15 16 was unlawful. Plaintiff was also handcuffed and detained on the side 17 of the freeway for a good 30-35 minutes. Plaintiff filed complaint 18

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2<sup>nd</sup>, 2016.

11. Los Angeles Sheriff's Department (Herein LASD) -ticket citation#AA467296

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LASD has engaged in unlawful patrolling from late November, 2014 to present. Plaintiff communicated with Sheriff James McDonnell hundreds of times via email and text to email to <a href="mailto:jmcdonne@lasd.org">jmcdonne@lasd.org</a> Plaintiff and Sheriff McDonnell even exchanged Christmas greetings in December

with Mark Mabanag #3446 with San Jose PD Internal Affairs Unit on May

of 2015. LASD handles security et al for Los Angeles Superior Court {herein LASC}. Plaintiff has two instant cases at LASC -- #15K05516

BALIK v CHOCOLATE SHOPPE ICE CREAM and #15K04655 BALIK v SUPER 8

HOTEL AZUSA. #15K05516 implicates US Congressman Fred Upton [6<sup>th</sup>

District MI] In addition to the heavy unlawful patrolling around the Courthouse area; Plaintiff also alleges foot deputies would try and act as a deterrent. Plaintiff even had a few deputies waiting outside the courtroom. Plaintiff sent communiqué to Sheriff McDonnell to warn that his Deputies behavior is being construed as Obstruction of Justice.

Plaintiff was driving north on Highway 101 to Santa Barbara, when two LASD Sheriff squad cars started to tail Plaintiff. As always,

Plaintiff engaged LASD Deputies - rolled down car windows and pointed at them, let Deputies know they were unlawfully patrolling. LASD squad cars sped up - Plaintiff was trying to flag them down and sped up too. Plaintiff was subsequently pulled over for speeding. [72 Mph on 101 65 Mph Posted Limit] See PEOPLE OF THE STATE OF CALIFORNIA v

JEREMIAH W. BALIK, #AA467296 Update: Moving violation was dismissed at trial on June 28th, 2016 - Chatsworth Courthouse, Hon Weiss

September 2015 - early December 2015; super model Samantha Hoopes posted a picture of her in a dress with a Black male wearing a white shirt with black suit coat and what appears to be a dress or kilt. In the background are LASD squad cars. This pix is highly derogatory - Plaintiff suspects Mayor Rahm Emanuel and or surrogates had something

to do with it. Mayor Emanuel is evil, a mega liar, shady and Machiavellian with a pro aggressive homosexual agenda. Plaintiff as a true man of faith/God/Hashem finds Mayor Emanuel and his agenda wrong. Over the Memorial Day holiday weekend, the City of Chicago experienced some 56 shootings and 6 deaths. Plaintiff proffers, as long as Mayor Emanuel is Mayor, the city will suffer.

## 12. City of Ventura - Ventura PD,

Ventura Police Dept., has engaged in multiple offences of unlawful patrolling over a year's time. The culmination of the unlawful patrolling took place on Feb 18th, 2016. Plaintiff was driving to UPS Store on 35 W Main St Ste B Ventura, CA 93001, (805) 643-6245 to courier Duces Tecum subpoenas [Subpoenas and instant cases implicate Mayor Rahm Emanuel of Chicago and US Congressman Fred Upton] A unidentified Ventura Police officer did a hard tail on Plaintiff for a few miles to UPS Store. Plaintiff snapped pictures on his iPhone of Ventura Police officer and squad car. [Note: Plaintiff was on Thompson Blvd] Plaintiff filed a complaint with Ventura Police Dept during conversation with Commander Tim Higgins; Cmmdr Higgins said something revelatory to Plaintiff. Cmmdr Higgins upon looking at Plaintiff's video snippet of incident said the California Exempt License Plate on squad car was not checked out in the logs on Feb 18th. Plaintiff immediately replied, Ventura PD officer must have

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swapped plates. Cmmdr Higgins disposition changed - he replied [not verbatim] "I hope my guys aren't doing that"...

13. City of Santa Clara - ticket citation #K361528, Case No 7-16-TR-484154

City of Santa Clara has engaged in unlawful patrolling since July 5th, 2015. Plaintiff is litigating BALIK v. TOY TALK, INC & MATTEL, INC in the Northern District of California, #15cv-04556-JST. Plaintiff usually stays in the Silicon Valley, specifically San Jose CMSA. Plaintiff is a 49er football fan [primarily Green Bay Packers] and would often drive by Levis Stadium. Plaintiff has documented numerous instances of unlawful patrolling; and has stopped into the Santa Clara Police Department more than a dozen times and even once into City Hall per the Mayor. Plaintiff would rate Santa Clara PD has notoriously bad for unlawful patrolling. Plaintiff proffers Santa Clara PD has a lot of time on their hands; thus giving way to needless unlawful patrolling and the wasting of tax payer dollars. Santa Clara PD would also engage in unlawful set ups. E.g. Santa Clara PD tracks Plaintiff's whereabouts via GPS/LBS - via cell phone carrier. Santa Clara PD sets up a "stop area" where they know Plaintiff is heading. One such incident happened February, 12, 2016 violation VC-22101D-1, Plaintiff was going to take a picture of Levis Stadium, since SuperBowl 50 had just been hosted at Levis February 7th, 2016. Plaintiff noticed Santa Clara PD "Set up" on Layfayette

Street - Plaintiff's hunch it was unlawful. To protest, Plaintiff made an illegal or unlawful u-turn in front of Santa Clara PD to speak to them. Plaintiff pulled up to Santa Clara PD and engaged in a conversation about being unlawful and that Plaintiff had dropped off cease and desist material to Chief Michael J. Sellers. Plaintiff was subsequently cited. Plaintiff has trial date in August and plans to remove ticket to Federal Court. Incident implicates US Congressman Fred Upton.

Santa Clara Sheriff [Jan 4<sup>th</sup>, 2016 at 3;22 PM] - Mayor Rahm Emanuel prompted Santa Clara Sheriff's Dept to come to a Target in Cupertino, CA unnecessarily. All based on an incident with a woman [Emanuel surrogate] in the Target parking lot. See pixs attached hereto

14. Santa Barbara County Sheriff's Dept [aka Barney Fife Sheriff's
Dept] - ticket citation #S228630

Santa Barbara County Sheriff's Dept [herein SBCSD] has been engaged in unlawful patrolling since the filing of Plaintiff's civil case #15cv02604 BALIK v. HALF MOON HOTEL, FRANK WEISER COUNSEL; Santa Barbara Superior Court, Hon James Herman presiding. Plaintiff made good faith attempt to curtail the unlawful behavior by meeting with Chief Deputy Samuel L Gross with SBCSD on or about Sept 20, 2015. It was a good meeting; Chief Deputy Gross even recommended a few restaurants to Plaintiff to try in town. Plaintiff went to Max's and enjoyed it. Relations were good for a month and then things began to

deteriorate. Since SBCSD does security services for Santa Barbara

Superior Court; Plaintiff made dozens of attempts [leaving notes at

SBCSD Headquarters, text to email <a href="sdg0547@sbsheriff.org">sdg0547@sbsheriff.org</a> and phone

calls] to reach out to SBCSD and warn of future litigation and

obstruction of justice. Earlier this year, Plaintiff was pulled over

by SBCSD in a K-Mart parking lot in Goleta, CA and then let go. Also

earlier in the year 2016, Plaintiff was harassed by two deputies [one

Black and one White] in the Santa Barbara Law Library. The complaint

was generated from a Clerk, Plaintiff had just dealt with - they

claimed Plaintiff was being "disorderly" - Plaintiff was printing out

a letter from US Sen. Charles Grassley, head of the Senate Judiciary

committee. Plaintiff told Deputies he would contact Sen. Grassley per

anymore harassment. Situation was quelled - Deputies left Law

library.

Plaintiff was pulled over at or around April/2016 off Turnpike exit on 101 in a Von's grocery store parking lot. Plaintiff had high-beamed SBCSD Deputies for unlawfully patrolling. Plaintiff was told by Deputies, High-Beaming was illegal according to Calif Vehicle Code. No ticket or citation.

On or about 30MAY16 - Plaintiff was driving North bound on Hollister in Goleta, CA. Two SBCSD Deputies did a hard tail. Plaintiff pulled over in a Super 8 Hotel parking lot [not coincidentally, Plaintiff has instant action vs SUPER 8 HOTEL AZUSA, DIPAK PATEL, LASC #15K04655. Plaintiff alleges Mayor Rahm Emanuel, implicated in case,

was trying to send a message, not to pursue justice] Plaintiff explained to Deputies this was the final straw; that Plaintiff would add SBCSD as a co-defendant in forthcoming litigation.

31MAY16 - Plaintiff subpoena's Chief Deputy Samuel L Gross per instant case #15cv02604.

31MAY16 / Carpinteria, CA - Plaintiff is pulled over and given ticket for "Out of State Registration" - Plaintiff immediately states to

for "Out of State Registration" - Plaintiff immediately states to
Deputies, ticket citation is retaliatory. [Note: No other law
enforcement agency, gave ticket to Plaintiff per Veh Code \$ 4152.5,
Out of State Reg, when pulled over. LASD, LAPD, Santa Clara PD, CHP,
San Jose PD etc. Plaintiff's Wisconsin OIF Veteran lic plates read
"Sammy 7" - a tribute to then girlfriend Samantha Hoopes] On June 2<sup>nd</sup>,
2016 Plaintiff corrected situation and registered vehicle in
California at Culver City DMV.

21JUN16 - 3 SBSO Deputies unlawfully patrolling in Goleta, CA around dusk.

Chief Deputy Samuel Gross declaration attached hereto; is filled with inaccuracies. Chief Deputy Gross states Plaintiff was escorted out of the Recorders office at the Santa Barbara Courthouse. This statement is not true; after visiting the Clerk's office, Plaintiff went to the law library within Courthouse. Chief Deputy Gross states Plaintiff sent 385 emails, text to emails etc. Plaintiff wants court to note, Plaintiff made good faith efforts to work things out.

01JUL16 - Unlawful patrolling 3 to 4 squad cars around Toyota Santa

Barbara in Goleta.

07JUL16 - Unlawful patrolling again, this time with UCSB Police Dept [under Chief Dustin Olson] sent emails to both PD units.

11JUL16 - Deputy in Squad car sped by me on 101 north - near 217 exit.

12JUL16 - Two deputy's coming from Santa Barbara Courthouse conveniently meet Plaintiff at cross walk [Fig & Anacapa] as Plaintiff is walking into Courthouse to check calendar on S228630.

12JUL16 - Traffic hearing, Courtroom 3, SBSC. Defendant, Jeremiah W. Balik corrected mater with California registration. Per Hon Anderle's ruling, Plaintiff to pay \$50.00.

10JUL16 - Santa Barbara PD [bad apple officer] may have stolen a Chocolate Shoppe Ice Cream Doc [Tom Hanks with Rep Upton on it] from Reality church Santa Barbara.

15. San Diego County Sheriff's Dept; Incident Report #16135380

Plaintiff stopped in for gas at a Valero in Encinitas, CA before heading down to the Southern District of California, Federal Courthouse to check on case/Hon Hayes ruling at or around 5:40 AM on July 14<sup>th</sup>, 2016. Gas was priced at \$2.65, best in the area by far. [Perhaps a lure from conspirators] Plaintiff went to use bathroom after pumping gas; it was "out of order"; due to some issue the night

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before. Plaintiff has had the "bathroom out of order" issue happen up and down the coast of California. Immediate suspicion arose conspirators Emanuel/Upton Et Al at it again. Plaintiff made a comment to the affect, 'as long as it was truly out of order, as God as our witness'. Male Valero employee's demeanor changed. Plaintiff was also purchasing a cranberry juice at the time. What ensued was a verbal altercation - male Valero employee snatched juice away and was told to leave store. Female Valero employee agreed. Plaintiff left and male Valero employee pursued like a "professional Donald Trump like agitator/instigator". Words ensued - male Valero employee said he was calling the cops. Plaintiff replied 'do you mean San Diego Sheriff', Male Valero employee said Yes. Plaintiff said he would wait for San Diego Sheriff's Dept., to show up. Plaintiff gave male Valero employee some identifying information and told both employees he was a Pro Se "Litigator". [E.g. Mayor Rahm Emanuel subpoena with Plaintiff's contact info, info on Chocolate Shoppe Ice Cream Company, Inc LASC #15K05516 case with Rep Fred Upton's picture on it] Male Valero employee crumpled the papers, threw them at Plaintiff. More talking went back and forth - Male Valero employee called Plaintiff a "Nigger" and "Stupid" - Plaintiff quipped 'you work in a gas station, take a picture of the back of my car, license plate'. [has Northwestern University license plate holder] Male Valero employee asked "why do you want to fight me?" - Plaintiff said he didn't that male Valero employee was a "coward" and Plaintiff is a "litigator",

that Plaintiff will call Valero corporate. {Northern Cal & San Antonio} Plaintiff started to snap some pictures - a customer driving a black pickup truck got caught in the picture, started questioning Plaintiff about why he was taking his picture. Plaintiff said he wasn't taking his picture, he got in the way. Customer in black pickup truck started to mix it up verbally with Plaintiff. Things seemed "staged" US Congressman Rep Upton style at this point. Valero employee's kept urging Plaintiff to leave before "cops" came -Plaintiff replied Plaintiff would wait until they came. Plaintiff thought the response time of San Diego Sheriff was unusually slow; especially given their North County station was around 2 miles away. During entire process, Plaintiff kept identifying himself as a "litigator" and never threatened anyone's life. Finally San Diego Sheriff's Dept arrived - questioned both parties and searched Plaintiff's person and vehicle. Plaintiff told one female deputy and two male deputy's not to plant anything in vehicle. They acknowledged they would not. Plaintiff was drinking a Starbucks double shot expresso coffee in a can. Deputy Abraham snatched it out of Plaintiff's hand and threw it away. Plaintiff responded, "are you going to buy me another one?" Deputy Abraham replied no then proceeded to ask Plaintiff to sit down on pavement. San Diego then asked Plaintiff to get up and performed searched. Plaintiff asked what their probable cause is ...

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San Diego Sheriff Dept., told Plaintiff they were detaining Plaintiff on "5150" - that Plaintiff would need a medical evaluation. Plaintiff found this to be strange and excessive... "Planned". Plaintiff fully cooperated and was hand cuffed and unlawfully detained and taken to Tri City Medical in Oceanside, CA by Deputy Abraham and Deputy McCaullaugh[sp]. Plaintiff immediately told San Diego Sheriff's Dept., their actions were deemed excessive and unlawful. Asked how long they have been on the force? 5 years - Deputy McCallaugh[sp] was a former North County firefighter. Plaintiff began to cross examine deputy's - Deputy Abraham didn't want to go along, didn't really want to answer Plaintiff's questions. Plaintiff went through a battery of test [E.g. blood, urine etc.]; everything came up clean. Plaintiff felt Tri City Medical was "stalling" and "delaying" things for most of the day. Plaintiff was asked to sign agreement - Plaintiff marked it up, struck clauses and eventually denied signature. Plaintiff spent entire day at Tri City Medical with some other serious 5150's. Plaintiff overheard other 5150's narratives - these were serious, hard cases. [E.g. Drugs use, actual threats of violence etc.] Plaintiff met with Doctors and was finally released around 5 PM. \*Incident at Valero should be available via digital tape backup from

16. LAPD [Not named as Co-Defendant]

IP surveillance cameras.

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Has engaged in repeated unlawful patrolling from November 2014 to present. Plaintiff has sent many cease and desist letters to Chief Charlie Beck at LAPD Headquarters, even copied Mayor Eric Garcetti. Plaintiff received Citation #C908266. After calls and emails, LAPD vacate or rescind ticket. Plaintiff to attend a Coffee with the Chief event sometime.

 ${f 04JUL16}$  - worked alongside LAPD and CHP, doing volunteer work at Shepherd of the Hills church,  $4^{ ext{th}}$  of July Spectacular in Porter Ranch, CA.

18JUL16 - Plaintiff waiting to speak with Patty (Patricia) Rosales/VP Clarity Mgmt/Poquito Mas regarding "pharm" incident at Chatsworth location and the "LAPD" discount.

17JUL16 DUSK: Plaintiff alleges a "runner" came into the Chatsworth Poquito Mas store on July 17<sup>th</sup>, 2016 at or around 8:00 PM -- the runner waited in line for a bit, but did not order food. [Suspicious activity - red flag] The runner then signaled and met up with a male Poquito Mas employee and delivered "pharm" [Pharm to make Plaintiff drowsy, Rep Upton and Mayor Emanuel want to steal legal docs from Plaintiff etc. Rep Upton did it at Texas Roadhouse Grill in Sacramento area, Travelers Insurance claim #E5Q4133 ] the male Poquito mas employee left the register/counter area to meet runner on restaurant floor. The male Poquito mas male employee then goes back to the counter and appears to hand off something with Poquito mas male cook.

Plaintiff being ex-military, Plaintiff typically maintain situational awareness and caught everything. Plaintiff threw away the tainted food. Studio plate item only cost \$4.25 or so -- Plaintiff received an "LAPD Discount" {military} Normal price is \$8.25 for a studio plate. Plaintiff placed an order to go, notices LAPD squad car unlawfully patrolling near by once in car. LAPD or roque LAPD officer

probably had involvement. Plaintiff to subpoena video tape back up.

Has engaged in repeated unlawful patrolling up and down the state of

California, from October 2014 to present. Worst offending sub station

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# 17. California Highway Patrol [Herein "CHP", not named as Co-Defendant] Citation #81827TN

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is Ventura, CA and Culver City, CA. Plaintiff sent cease and desist

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docs to Commissioner Farrow in Sacramento Hdq. A positive came when Plaintiff spoke with a commander from Hdq to discuss issues. Plaintiff now texts customerservicehq@chp.ca.gov when Plaintiff sees unlawful patrolling or any possibility of shenanigans. The height of unlawful patrolling came when Plaintiff was pulled over in North San

Diego County for "license plate holder obstructing view of license plate [Wisconsin]". Plaintiff went to trial and corrected matter.

Big run ins in San Jose, Culver City and King City. [See Pics]

O4JUL16 - worked alongside LAPD and CHP, doing volunteer work at Shepherd of the Hills church, 4<sup>th</sup> of July Spectacular in Porter Ranch, CA.

### 18. Chula Vista Police Dept., [July 2015]

Plaintiff went to use Law Library in Chula Vista Courthouse.

Plaintiff arrived early and the library was not open yet. Plaintiff decided to drive to McDonalds nearby. When Plaintiff arrived, the McDonalds was full with Chula Vista PD officers [more than eight]

Plaintiff immediately suspected shenanigans "Rep Fred Upton\Boehner" style. Plaintiff had a few words with some of the officers —

Plaintiff told them to stay lawful. When Plaintiff drove back to the courthouse, all the parking spots were full. Plaintiff alleges this was planned by Chula Vista PD —— Plaintiff did not use Law Library.

### 19. Citrus Heights Police Dept.,

Plaintiff was issued citation #549894CM on 07/12/2015 by Citrus

Heights Police Dept.; ticket was later vacated after Plaintiff's

pleading of "unlawful patrolling". Citrus Heights PD [and Rancho

Cordova PD] has engaged in unlawful patrolling since November 2013 -

 when Plaintiff lived in the Sacramento CMSA; while working for wireless integrator Alpha Omega wireless.

25APR16 Latest incident - Texas Roadhouse; Plaintiff drove from the SF Bay Area to Sacramento ["Sacto"] to attended church services at Bayside church in Granite Bay, CA. Plaintiff spent day in Sacto, checked out the new Golden1 Arena and worked out at the YMCA.

Plaintiff drove to Citrus Heights to order takeout before driving back to the SF Bay Area. Upon arriving, Plaintiff noticed 4/5 Citrus Heights PD ostensibly speaking with a perp. Plaintiff ordered take out and alleges it had "drugs/pharm" in it. Plaintiff further alleges Citrus heights PD had something to do with it "Rep Upton style".

Plaintiff did not make it back to San Jose on April 25th - rather Plaintiff stayed in the Pittsburg/Antioch area because Plaintiff felt so drowsy. Plaintiff immediately filed complaint with Texas Roadhouse Grill and visited the VA Hospital in Palo Alto. Plaintiff received call from Texas Roadhouse Grill's insurer Travelers Insurance Co., claim #E5Q4133. At Present, Travelers has denied claim.

#### 20. Sutter Creek PD

Citation # SC 01421 / blocking entrance to police parking lot - Plaintiff paid. Plaintiff was sending message about unlawful patrolling.

## 21. Santa Cruz Police Dept., [First Amendment violation]

Plaintiff attended Sunday service at Holy Cross Church in Santa Cruz, CA on or about 24APR16 Plaintiff drove from San Jose -- was running a little behind (7 AM Service) when Plaintiff arrived; two Santa Cruz PD SUV Vehicles were in the parking lot. [Note: Plaintiff has instant case #15cv04556-JST before Northern District of California. BALIK v TOY TALK, INC & MATTEL, INC] In all the times Plaintiff attended Holy Cross Church, Santa Cruz PD was never in attendance. Plaintiff immediately suspected "shenanigans" Samantha Hoopes style [see BALIK v HALF MOON HOTEL Et al Santa Barbara Superior Court www.sbcourts.org #15cv02604 -Subpoenaed Super Model Samantha Hoopes per July 13th hearing. Santa Cruz PD was suppose to be a deterrent to Defendant moving forward per case] Mayor RAHM Emanuel (Chicago) is implicated. Plaintiff did volunteer campaign work for Emanuel during his first mayoral run, before Plaintiff knew how evil, devious, Machiavellian he is. Emanuel's brother is WME/IMG CEO/agent Ari Emanuel. Rahm & Ari are trying to set Samantha Hoopes up with one of their clients E.g. QB Russell Wilson, Leonardo DiCaprio etc Samantha Hoopes gets her coveted front cover of "Sports Illustrated" for being with someone she doesn't love. Samantha hoopes loves Plaintiff, Jeremiah W. Balik Plaintiff filed complaint with Sgt. Garcia in Professional Standards Unit P#: 831-420-5819 (also mailed coupon for free Dunkin Donut) and

subpoenaed Chief Ken Vogel and Independent Police Auditor Robert Aaronson per SBSC case #15cv02604.

22. San Francisco Police Dept [herein SFPD]

SFPD engaged in unlawful patrolling around October 2, 2015; the time Plaintiff filed Federal Complaint in the Northern District of California; San Francisco Division. BALIK vs. TOY TALK, INC & MATTEL, INC #15cv04556-JST. Excerpt from "SF Gate" newspaper "Accusations of racism in the San Francisco Police Department gained momentum in federal court Thursday [June 30<sup>th</sup>, 2016] when a judge ruled that a series of Tenderloin drug stings — in which all 37 people charged were black — showed "substantial evidence" of racially discriminatory law enforcement."

"The evidence shows there are substantial numbers (and a substantial proportion) of drug dealers in the Tenderloin who are not African American; yet they were not stopped or arrested," said U.S. District Judge Edward Chen.

There is "substantial evidence of racially selective enforcement by the San Francisco Police Department" and its partners in the U.S. Drug Enforcement Administration, Chen said. He said the defendants are entitled to seek evidence from the police agencies about their racial practices. And, he said, selective law enforcement — singling out blacks for arrest — is a civil rights violation that would require dismissal of the charges if proved.

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23. Oakland Police Dept

Engaged in unlawful patrolling around October 2, 2015; the time Plaintiff filed Federal Complaint in the Northern District of California; San Francisco Division. BALIK vs TOY TALK, INC & MATTEL, INC #15cv04556-JST.

24. {Not Exhaustive} Santa Barbara Police Dept., Pasadena Police Dept., Culver City Police Dept., Glendale Police Dept., Chino & Chino Hills Police Dept., Huntington Beach Police Dept., Manhattan Beach Police Dept., Long Beach Police Dept., San Diego Police Dept., San Diego Sheriff's Dept., Bakersfield Police Dept., Kern County Sheriff's Dept., Fresno Police Dept., Sacramento Police Dept., Sacramento Sheriff's Dept., Rancho Cordova Police Dept., Sutter Creek Police Dept., Eureka Police Dept., Greenwood PD, Culver City PD, San Bernardino PD [Choc Shoppe Docs]

\*Great Lakes PD/Naval Police/Masters-At-Arm -shenanigans from Mayor Rahm Emanuel at or around May/2014. Escorted off Naval base, by Naval Police. Was detained for a short time, Plaintiff alleges Navy PD sent an email to Nicole/Next Generation Wireless from Plaintiff's iPhone.

Plaintiff believes delineating work history would be helpful to Court. Work history also establishes a material connection with conspirators Mayor Rahm Emanuel and Rep Fred Upton Et al...

Incorporated herein, complaint filed with Southern District of

California;

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tbernatz@iowatelecom.net

27 28 25. Additional Background: Plaintiff has friends and family in law enforcement. E.q. worked side-by-side with TJ Weigand [tjweigand@hotmail.com] with Chicago Police Dept at Willow Creek church/downtown campus. Plaintiff was a head usher - collected money from other ushers after offering and put in safe. Chicago PD provided escort service. Plaintiff attended high school with officer serving in Cedar Falls Police Dept - Plaintiff ran into him at a Hy-Vee supermarket in Cedar Falls, shortly before aforementioned incident. Again, Plaintiff worked with law enforcement in previous jobs [E.g. Verizon Wireless, Connectronics etc] Plaintiff has family in law enforcement; Brother-in-law Andrew Clements {US Army Reserves, Warrant Officer, Pilot}, married to my older sister Annette (Balik). 880 St. Andrews Drive, North Liberty, IA 52317 (319) 626-2806 and aclements406@yahoo.com Plaintiff's Uncle-in-law Tom Bernatz {Vietnam vet, Seabee} married to Plaintiff's Aunt Ruth, is former Sheriff in NE Iowa. 679 East Jefferson Street, New Hampton, IA 50659 (319) 240-6184 and

26. Case No.: 16-CV-1106 WOH-BGS BALIK v. SPRINT-UNITED MANAGEMENT CO/TIME WARNER CABLE, INC /TELEPHONE AND DATA SYSTEMS, INC [Parent company to US Cellular]

EEOC/Los Angeles issued Plaintiff Right-To-Sue Letter; State or Federal Court #480-2015-01841 [Sprint] #480-2015-01839C [TWC] and US Cellular COMPLAINT NO. 3428 & TDS Telecom #440-2012-03129 [Iowa Civil Rights Commission and EEOC/Chicago respectively] True and accurate copy of letter, attached hereto

Precedence of Mayor Rahm Emanuel Job Tampering 1: [Year 2011-2012]

Plaintiff interviewed and accepted an offer from Defendant as a

Government Account Manager [herein GAM]. Plaintiff spent months

landing job from one-on-one interviews with hiring manager Robert A

Dolan in Hoffman Estates, IL to Five panel interview sessions in

Downtown Chicago. The GAM position handled the City of Chicago, with

Rahm Emanuel the newly elected Mayor. Plaintiff even had a Defendants

email jeremiah.balik@sprint.com ready to go.

Plaintiff's Sprint offer was rescinded for no valid reason. A reasonable person or juror could easily make the deduction [Plausible on its face] that Plaintiff had offer rescinded due to his protected status, color of skin. Pretext also exists, because Plaintiff put in 75 hours of volunteer time on Rahm Emanuel's Mayoral campaign. Everything from collecting signatures outside heavily trafficked super markets in the Chicago CSMA; to calling potential voters from a list [E.g. phone banking] to fundraising [E.g. called Hollywood connections et al to contribute].Plaintiff met Mayor Emanuel for the first time at a fundraiser held at the House of Blues in downtown

Chicago. Headlining was a WME/IMG Entertainment client, Jennifer Hudson. Plaintiff had numerous interactions with Mayor Rahm Emanuel - even emailing him/staff/surrogates his application toy driven invention. [#12/659,756 is a published patent and copyrighted] Plaintiff alleges Mayor Emanuel and his brother Ari Emanuel Et Al [CEO of WME/IMG Entertainment - client is Hasbro] sabotaged his patent efforts at the USPTO. Emanuels et al wanted to make Plaintiff's idea "public domain" - for all toy companies to use freely. See Balik vs Toy Talk, Inc & Mattel, Inc Instant case #15cv04556-JST Northern District of California and Balik vs Spiral Toys, Inc and The Walt Disney Company, Instant case #15cv08112-GW Central District of California and 9th Circuit appeal. Plaintiff further alleges that Mayor Rahm Emanuel Et al severely abused their authority by preventing Plaintiff from getting hired with Defendant and other telecommunications positions. By doing thus, Plaintiff could not spend discretionary income on then Patent Attorney Susan Pan with Sughrue Mion in Washington, DC. [Note: Plaintiff wrote specification and claims and filed patent. Plaintiff brought on Patent Attorney Susan Pan, after a dinner meeting at Moe's Cantina in River North. Attorney Pan paid for dinner and offered her services to handle inter office actions, up to patent issuance. Plaintiff alleges the Brothers Emanuel, Toy Industry Association, The Walt Disney Company; Mattel et al prompted Attorney Pan to work with Plaintiff - to derail his patent from issuing. [Note: Mayor Emanuel

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attended a fundraiser in Hollywood, set up by his brother Ari Emanuel. Some notable people in attendance were Tom Hanks and Disney CEO, Robert A. Iger] Plaintiff was tipped off about Defendants shady dealings from Executive VP of External Affairs, Verizon Communications - Tom Tauke. Tom Tauke is a former Iowa US Congressman and good friends of US Senator Chuck Grassley [Plaintiff's job reference] Plaintiff also had a friends' [Wiley] sister's husband that worked for Verizon Communications in Washington, DC. A mutual friend of Wiley's and Plaintiff is Ron Horsley at (702) 318-1345 or rchorse@yahoo.com {Plaintiff, Wiley & Ron are all members of Kappa Sigma Fraternity} Ron Horsley clued Plaintiff in [Note: Ron Horsley played football for USC under Pete Carroll. Ron gave Plaintiff and Wiley free tickets to the 1996 Rose Bowl game - Wiley attended USC and Plaintiff went to Northwestern University. Pete Carroll now coaches WME/IMG Entertainment client QB Russell Wilson. WME/IMG Entertainment has been actively trying to set up Plaintiff's then girlfriend super model Samantha Hoopes with WME/IMG clients - also Bradley Cooper and Leonardo DiCaprio] Plaintiff applied for a wireless sales position in Madison, WI with Defendant [Reseller]. Plaintiff lived in Madison, WI for 6 months during 2014. Plaintiff was helping fellow OIF Veteran friend Doug Pierce and his fiancée Beth. Doug tried to commit suicide. Praise God, Dane County Sheriff was able to triangulate in on Doug's US

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Cellular cell phone and prevent things. Plaintiff spoke with a hiring manager over phone — nothing ever came about. Plaintiff took a job at an AT&T Reseller, selling U-Verse [Cydor] and a job delivering pizza's at night with Glass Nickel Pizza Company. [Note: introduced to Chocolate Shoppe Ice Cream Company, Inc. at Glass Nickel Pizza Company. See Balik vs Chocolate Shoppe Ice Cream Company, Inc. Instant Case #15K05516, Los Angeles Superior Court]

Most recently, Plaintiff applied for positions Plaintiff was more than qualified for with Defendant in San Diego and Los Angeles. Plaintiff received email replies that Defendant would not be moving

Sprint California and Chicago emails, attached hereto as

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on with Plaintiff.

### Precedent of Mayor Emanuel Job Tampering 2:

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offer with TDS Plaintiff interviewed and accepted an Telecom/Defendant at or around March 21, 2012. Attached hereto, Exhibit 3 Offer letter from TDS Telecommunications Human Resources. Plaintiff was going to work in the Chicago CSMA doing technical to TDS sales. Plaintiff had а training date to qo Telecommunications/Defendant Headquartered in Madison, WI. [Note: TDS Telecommunications and US Cellular are owned by T&DS in Chicago, IL] from TDS Telecommunications/Defendant received call Plaintiff Specialist Nicole Jooranstand after signing offer letter and getting training start date that they needed to do additional background

checking - call Plaintiff's references. Nicole Joraanstad lied; she 1 2 3 4 5 6 7 8 10 11 12 13 unlawfully spend 2 days in Cedar Falls, IA Jail - over a potential 14 job!!!! Attached hereto, Exhibit 4 15

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never called any of Plaintiff's job references, one of which is US Senator Charles Grassley. Plaintiff called US Senator Grassley staffer Gary Fisher in the Cedar Rapids, IA office 111 7th Avenue, SE, Box 13, Suite 6800, Cedar Rapids, IA 52401-2101 (319)363-6832 gary fisher@grassley.senate.gov he confirmed he never received a call from Nicole Jooranstad Next Generation Wireless [Authorized US Cellular Agent] - Sales Director Nicole Knebel. Plaintiff sent Nicole postcards, emails and once stopped into the sales office in Cedar Falls, IA. Plaintiff would later be arrested and charged for 3rd degree Harassment and

Plaintiff allege's Mayor Rahm

17 Cellular/Defendant Corporate Headquarters are in Chicago. 18

## Precedence of Mayor Rahm Emanuel Job Tampering 3:

Plaintiff applied for numerous US Cellular technical positions in Chicago, IL, Iowa, Wisconsin and California. Plaintiff was always turned down for positions. Plaintiff applied for a technical sales position with US Cellular Authorized Agent Next Generation Wireless -Sales Director Nicole Knebel. Plaintiff sent Nicole postcards, emails and once stopped into the sales office in Cedar Falls, IA. Plaintiff would later be arrested and charged for 3rd degree Harassment and

Emanuel/Rep Fred Upton {perhaps Bruce Braley} had involvement - US

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unlawfully spend 2 days in a Ceder Falls, IA Jail - over a potential job!!!! Plaintiff alleges Mayor Rahm Emanuel, Rep Fred Upton, [Perhaps Iowa Gov. Branstand] had involvement - US Cellular Corporate\Defendant Headquarters are in Chicago. [Subsidiary of Telephone and Data Systems, Inc]

Precedence of Mayor Rahm Emanuel Job Tampering 4: AT&T Reseller, U-Verse - PrimeTime Executives [Cydcor] Plaintiff worked for AT&T in Los Angeles as TSCII, or Pre-Sales Engineer. Plaintiff would handle all high-level technical drawings, presentations to Fortune-1000 companies etc for a group of Account Managers. Plaintiff excelled in the role - earned the CCDP & CCNP. [Cisco Certifications] AT&T spent \$10,000 for Plaintiff to attend CCNP labs in Pasadena, CA. Plaintiff worked for AT&T for two years - then was head hunted to work for Verizon Communications, as a CAM handling Fortune 500 companies; based out of Norwalk, CA. 9/11 occurred Plaintiff got homesick + wanted to do more with his life and Country. Plaintiff moved back to the mid-west after working for Verizon Communications for a year. Plaintiff is from Cedar Rapids, IA - moved to Chicago, IL and took a TSCII position with AT&T. Plaintiff also joined the US Navy, in response to 9/11\*. [\*Plaintiff would later switch to the US Army as a 2<sup>nd</sup> LT, then back to the US Navy due to school] Plaintiff also decided to go back to school, to work on a Master's degree. Plaintiff was told by a Vice President [Black woman] he could do it. Plaintiff

also got approval from his supervisor Duane Liggins. [Sp Also Black] Plaintiff started researching programs - the VP reversed her decision. One day, Plaintiff got in an argument with his supervisor Duane. Plaintiff was fired from AT&T in Chicago. Plaintiff took a position at Verizon Wireless in Evanston, IL. US Senator Dick Durbin wrote a letter of recommendation for Plaintiff, for Northwestern's Master of Science in Communications, Managerial. The MSC was a two year program. A true and accurate copy of the Sen. Durbin letter of recommendation, attached hereto as After graduating from Northwestern University with a 3.7 GPA, Plaintiff was recalled to active duty service to the mid east. Battalion served in Kuwait and Iraq. [Year 2010 -2011]Plaintiff would later get hired on to an AT&T Reseller in Chicago, selling AT&T business VOIP and MPLS technology. The Reseller was a Cydcor [West Lake Village, CA Corporation] affiliate. A Muslim co-worker [Ray - close friends with owner Rob from Detroit, MICHIGAN] made a joke about 9/11 that Plaintiff took major offense to. Plaintiff had just served in Operation Iraqi Freedom. Plaintiff had a few words for Ray and said to Robert that Plaintiff did not want any further interaction with Ray. Robert sided with Ray and fired Plaintiff. Plaintiff applied for unemployment insurance in Illinois. Employer [Rob/Cydcor] disputed Plaintiff's unemployment. State of Illinois used an Administrative Judge to hear both sides and adjudicate. Plaintiff prevailed in the proceedings and

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received unemployment benefits. Plaintiff alleges Mayor Rahm Emanuel was tampering with his sales efforts while at AT&T Reseller. Plaintiff was able to sell a large deal, an MPLS WAN [Wide Area Network] with trans logistic company - K-LINE] Plaintiff would later work for a wireless [microwave radio] reseller called Connectronics, handling Illinois and Wisconsin and a wireless integrator, Alpha Omega Wireless, in Sacramento; CA. Plaintiff alleges Rep. Fred Upton and Mayor Rahm Emanuel thwarted Plaintiff's sales and sales efforts. Attached hereto as Exhibit 6, letter from Mayor Eric Garcetti. Fast forward to 2014 working in Madison, WI selling U-Verse for an AT&T Reseller [Cydcor Company] how is it Plaintiff was hired on to an AT&T Reseller [previously fired in Chicago] and a Cydcor affiliate [previously fired in Chicago] in Madison, WI? The position in Madison, WI required an AT&T background check. The owner of the Cydcor-ICL, said Plaintiff's background check came back the fastest he had seen - approved. Plaintiff alleges Rep Fred Upton and Mayor Rahm Emanuel felt guilty + they wanted to endear themselves to Plaintiff per Samantha Hoopes. [E.g. a favor, we helped with a job, so stop pursuing Samantha Hoopes kinda thing] Emanuel/Upton et al had to aid in the approval of background check and hire. [Note: If background check didn't pass - no hire] Also see Glenn Beck video on Mayor Rahm Emanuel.

https://www.youtube.com/watch?v=oAkePgf8hkA

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Emanuel made \$16 to \$18 million dollars in two years on an AT&T/Ameritech based deal. Mayor Emanuel studied ballet at Sarah Lawrence College and has a graduate degree from Northwestern University. [Note: Mayor Emanuel via surrogates have also messed with Plaintiff's Sallie Mae student loans - Mayor Emanuel sat on the board, when the books were getting cooked]

## Precedence of Mayor Rahm Emanuel/Rep Fred Upton Tampering/US Patent and Trademark Office [USPTO]:

During Plaintiff's campaign work for Mayor Rahm Emanuel, Plaintiff told him/staffers that Chris Heatherly, then VP of Disney Consumer Products in Burbank, CA lied via email See Exhibit and was trying to steal Plaintiff's Application Driven Toy Patent idea [Pub Pat #12659756] Robert A Iger, CEO of Disney [large Apple stock holder], is good pals with Mayor Rahm Emanuel. Robert A Iger attended a fundraiser for Mayor Rahm Emanuel in Hollywood, CA organized by his brother Ari Emanuel [CEO, of WMW/IMG Entertainment]. After telling Mayor Emanuel of Chris Heatherly's nefarious activities, shortly after he was fired. Plaintiff alleges Mayor Rahm Emanuel had something to do with the firing - additionally; WME/IMG Entertainment handles toy company Hasbro. Plaintiff further alleges Mayor Rahm Emanuel Et al had my patent "jammed" at the US Patent Office.

12659756 was published but never went to issuance. [Note: Steve Jobs of Apple is the only "Known Inventor" on the Application]

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A true and accurate copy of USPTO tampering is attached, hereto as
1
   [Email where Chris Heatherly lies incorporated herein PG 13 5-13]
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   From: "Heatherly, Chris" < Chris. Heatherly@disney.com>
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   Date: June 14, 2010 7:38:03 PM CDT
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   To: Jeremiah Balik <shteren.entertainment@gmail.com>, "Calne, Max"
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   <Max.Calne@disney.com>
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   Subject: RE: Spin Master/Marvel: "Iron Man 3" Toyline idea / Desk of
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   Spencer Baumgarten/ CAA
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   Jeremiah,
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    Again, this is a concept we have had in our labs for years and
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   others have done. I can't speak for Marvel but we feel covered at
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   Disney on this. Let us know if the patent issues.
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    Best,
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   Chris
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   Plaintiff found out recently, Chris Heatherly is back at The Walt
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   Disney Company, with the Interactive Group.
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   CELL PHONE TAMPERING/EMAIL BLOCKING - US Congressman Fred Upton is
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   Chair of the Energy Commerce Committee [ECC] The ECC oversees the FCC
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   or Federal Communications Commission. The FCC oversees
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    telecommunications companies like AT&T, Verizon, Sprint, T-Mobile, US
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    Cellular, Time Warner Cable, Inc, TDS Telecom, Etc
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    Plaintiff alleges Rep. Fred Upton/Mayor Rahm Emanuel called in favors
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   and had Plaintiff's phone tampered with by numerous carriers.
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   Plaintiff had AT&T, Verizon Wireless, US Cellular, T-Mobile and
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Sprint/Defendant as carriers for iPhone services. Plaintiff alleges wifi was blocked, thus running up 3G/LTE data usage - high bills. Plaintiff alleges network snooping and throttling, GPS/LBS tracking. Plaintiff went to US Senator Tammy Baldwin and her staffers while in Wisconsin in 2014; Sen Baldwin and her staffers contacted the FCC per the aforementioned issues on Plaintiff's behalf. Not much of anything was resolved. Again Plaintiff's AT&T, Verizon, T-Mobile, Sprint/Defendant iPhone service via (310) 892-3634 and (619) 455-2719 etc was jammed (Wi-Fi), so Plaintiff would have to use 3G/LTE network - thus running up bill. AT&T/Verizon Wireless/T-Mobile/Sprint/US Cellular also blocked websites (Samantha Hoopes and Kate Upton related), text messages and throttled network. Plaintiff switched over to different carriers, they all did the same things "ECC Style". Plaintiff also filed Civil Harassment cases on Mayor Rahm Emanuel, US Congressman Fred Upton and Majority Whip Kevin McCarthy. A letter from US Senator Tammy Baldwin is attached, hereto as Plaintiff really hit it off with Rep. Fred Upton's niece Kate Upton via social media. Rep. Fred Upton was irate with Plaintiff. Further, Super model Kate Upton led Plaintiff to Rep. Upton's personal cell phone number of 269-983-1323 or 2699831323@vtext.com from an email account. [phone belongs to Rep Upton's wife Amey] Early 2015, Plaintiff went to a Verizon Wireless store in Inglewood, CA to complain about iPhone being tampered with by Rep Upton and Mayor Rahm Emanuel IT surrogates Et al. Plaintiff asked Verizon Wireless

employee to look up 269-983-1323 in Net Ace; Verizon Wireless's primary billing database. To the Plaintiff's surprise, it didn't show up in Net Ace. If a number doesn't show up in Net Ace and Verizon Wireless is the responsible carrier [info needed when one is porting a number to a different carrier]; it's free. Why is the Energy and Commerce Committee Chairman, which oversees the FCC, which oversees Verizon Wireless, receiving a free phone? Lately, Rep Upton has tried to cover up his malfeasance by trying to disguise 269-983-1323 as a landline number.

## Precedence of Mayor Rahm Emanuel Job Tampering 5:

Plaintiff applied for/took assessments for numerous jobs with Time
Warner Cable/Defendant, Inc in the Los Angeles CSMA and San Diego
CSMA on or about from October 2014 - May 2015[E.g. Major Account
Executive - Gov.Ed opening - 165029BR Applied April 12, 2015]
Candidate Reference Number 16450378 In all instances, Plaintiff was
never called for interview and would only receive emails from Time
Warner Cable, Inc stating that they are pursuing other candidates.
Email from Time Warner Human Resources and Press-Release from former
employer Alpha Omega Wireless - listing telecommunications/technical,
military and education background. TWC email and Alpha Omega Wireless
press release is attached, hereto asSee Balik v. Time Warner Cable, Inc Instant Case #15-cv-06886 SJO
(AJWx) from Los Angeles Superior Court Case (Defense counsel removed

case) case #BC590455 and 15LC-0842 San Luis Obispo Superior Court - Plaintiff was deemed a Vexatious Litigant in this case against TWC/Defendant. Plaintiff felt this was a pathetic legal strategy. Judge LaBarbera adopted the tentative ruling - Plaintiff had to pay \$10,000 surety bond to proceed forward. Plaintiff filed a complaint with Kurt Deucker with the California Judicial Counsel in San Francisco, CA. As of the filing date of this complaint, Plaintiff is not on the Vexatious Litigant list.

Detective Zimmerman Call - Washington, DC Capitol Police

Plaintiff received call from Detective Zimmerman with the Washington,
DC Capitol Police (202) 224-9806 on or about June 23,2015 Per the
conversation, Mayor Rahm Emanuel was implicated in various pending
litigation - Case # 15K09734 Jeremiah W. Balik v. Toyota Santa
Monica, [Ventura case v. Toyota Santa Monica, settled out of Court]
Case #15CV02604 Jeremiah W. Balik v. Half Moon Hotel/SBSC {Frank
Wesier Counsel}, Case #15K04655 /LASC Jeremiah W. Balik v. Super 8
Azusa Hotel {Maughan Law counsel - Attorney substitution} Congressman
Fred Upton implicated in Case #15K05516 /LASC Jeremiah W. Balik v
Chocolate Shoppe Ice Cream {Jannson, Munger, McKinley, & Shape Ltd
Counsel} They're both implicated in old Case # BC590455 & BC590455
Jeremiah W. Balik v Time Warner Cable { Defense Counsel, James Bowles
and Casey Moran, Elissa with Hill, Farrer, & Burrill LLP} Both cases
were removed to Central District of California. Plaintiff never

answered, was told by EEOC-LA State or Superior Court only. Instant action #15-cv-06886-SJO now in 9<sup>th</sup> Circuit of Appeals -- Appellate Docket Number 16-55514 Plaintiff filed Civil Harassment suits 15S01909 v. Mayor Rahm Emanuel and BCV15100742 v. US Congressman Fred Upton & BCV15100741 v.US Rep Kevin McCarthy whom aided US Congressman Fred Upton in California.

### US Senate - EEOC Support Letters

Plaintiff received EEOC support letters from US Senator Dianne
Feinstein/Staffers, US Senator Tammy Baldwin/Staffers, US Senator
Mark Kirk/Staffers and US Senator Charles Grassley/Staffers. A
support letter from US Senator Dianne Feinstein is attached, hereto
as and a letter from US Senator Charles Grassley per attorney
referral per US Cellular/Next Generation Wireless legal matter, is
attached hereto as

## Precedence of Rep Fred Upton Tampering - GPS Kill Switch"

Plaintiff incorporates paragraphs 1-15 herein by reference. Plaintiff alleges that either Congressman Fred Upton [Energy & Commerce Committee Chairman - ECC oversees the FCC, Federal Communications Commission, which oversees Time Warner] or Mayor Rahm Emanuel or BOTH abused their authority and called in a favor to Time Warner, Sprint Etal to block and prevent Plaintiff from getting interviewed and hired at telecommunications companies. Plaintiff has a past with both aforementioned super-shady and evil political members [E.g. Put in 75]

hours of campaign work when then Whitehouse Chief of Staff Rahm Emanuel ran for Mayor of Chicago.] + Plaintiff further alleges "job blocking" had to do with his then girlfriend Super Model Samantha M. Hoopes. [Note: US Congressman Fred Upton & Mayor Rahm Emanuel didn't want Plaintiff pursuing/courting Super Model Samantha Hoopes. They wanted to set Samantha M Hoopes up with a WME/IMG client; like Seattle Seahawk's QB Russell Wilson, Actor Leonardo DiCaprio, and Actor Brad Cooper. Samantha M. Hopes met them all - Samantha also mentioned relationship with Plaintiff on an Episode of "Guy Code" on MTV2 Plaintiff will provide Court video Clip, Plaintiff subpoenaed evidence from MTV Networks/Viacom. Plaintiff also subpoenaed Samantha Hoopes, US Congressman Fred Upton and Mayor Rahm Emanuel per instant case #15cv02604/SBSC] - Upton/Emanuel abused their authority by taking away potential jobs to send a message to Plaintiff "Back Off" it backfired on them thoroughly] "GPS KILL SWITCH" /KATE UPTON BACKGROUND: When Plaintiff lived in the Chicago CSMA at or around 2012-2013; he stayed in the Gurnee/Waukegan/North Chicago area.

{Excerpt from Top 10 Torts doc} I allege Eric Paramski, owner of MacLagan Auto, 3710 Grand Avenue, Gurnee, IL 60031 and 847-244-0247, installed a GPS Kill Switch in my Volvo. I allege Mayor Emanuel was aware, however, Rep Fred Upton is the main culprit. Via social media [Instagram and Twitter] I started interacting with Super Model Kate Upton. [Also via her team at IMG Models in New York City - Ivan Bart

& Lisa Benson]. Kate led me to her parents' home address in Stevensville, MI. Kate led me to US Congressman Fred Upton personal cell phone of 269-983-1323 I also had her brother David's St Joe cell number to get messages to Kate. Kate and I had a sophisticated way to communicate on Instagram. [All the accounts have been taken down] Kate really liked me...maybe even Loved me. This made Rep Fred Upton angry - he used his AT&T contacts to jam my network, slow me down on Instagram and other really bad stuff. Having the GPS Kill Switch in my car generated thousands in unnecessary bills. Around this time last year, I drove my Volvo to do research at Toys R Us in Gurnee, IL. My car had just been worked on at MacLagan Auto Center in Gurnee, the checking out new app driven toys and such.

I come out and open my car to start it. A woman driving a white SUV with Michigan license plates started circling my car. She drives in circles…over and over. Being ex-military I give her a hard stare - she then comes in closer. I give her an intense look and throw my hands up like "what's up". Subsequently she drives off - I go to start my car….it doesn't start. I'm suspicious at this point, my car was driving well + just had work done. I start to Google GPS Kill Switch + call Officer Departe with Gurnee Police Dept [I did a ride along with him] I leave him a message asking about GPS Kill Switches. I call MacLagan Auto and AAA to get towed.

My call to AAA was routed to a Michigan call center. I waited 4 or 5 hours for a tow truck to come. They were stalling, so that MacLagan auto couldn't work on my car [they closed at 5 PM]. It was a Friday and MacLagan was closed for the weekend. I knew it was Rep Fred Upton. [Perhaps he worked in concert with Mayor Rahm Emanuel] Toys R US should have digital backup via IP Surveillance cameras in the parking lot. Plaintiff alleges US Congressman Fred Upton had GPS Kill Switch installed as punishment for getting very close with his Super Model niece Kate Upton - Rep Fred Upton wanted to run up my auto repair expenses. US Congressman Fred Upton letter is attached, hereto

#### **CLAIMS**

27. 42 USCS § 1983 gives remedy--action at law, suit in equity, or other proper proceeding for redress--to parties deprived of constitutional rights, privileges, and immunities by official's abuse of his position. Monroe v Pape (1961) 365 US 167, 81 S Ct 473, 5 L Ed 2d 492 (ovrld in part on other grounds by Monell v Dep't of Soc. Servs. (1978) 436 US 658, 98 S Ct 2018, 56 L Ed 2d 611, 17 BNA FEP Cas 873, 16 CCH EPD P 8345; Winicki v Mallard (1986, CA11 Fla) 783 F2d 1567; Wilson v Civil Town of Clayton (1988, CA7 Ind) 839 F2d 375; City of Canton v Harris (1989) 489 US 378, 109 S Ct 1197, 103 L Ed 2d 412; Thomas v Gee (1994, SD Ohio) 850 F Supp 665; McBride v Village of Michiana (1994, CA6 Mich) 23 Media L R 1600;

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42 USCS § 1983 (Replace this text with the name or description of the notes section you selected the text from.)

42 USCS § 1983, which authorizes redress for violations of constitutional and statutory rights, is not itself source of substantive rights, but rather method for vindicating federal rights elsewhere conferred by those parts of United States Constitution and federal statutes that it describes. Baker v McCollan (1979) 443 US 137, 61 L Ed 2d 433, 99 S Ct 2689.

An arresting officer must have probable cause to believe that the person arrested committed an offense. Probable cause exists if at that moment the facts and circumstances within the officer's knowledge and of which the officer had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense. An arrest based on probable cause does not violate the Fourth Amendment, even if the wrong person is arrested. An arrest warrant is required for an arrest inside a home, absent exigent circumstances.

#### 28. First Amendment violations

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of

speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. Santa Cruz PD incident violated First Amendment rights per freedom of religion and the free exercise thereof. Cedar Falls PD, San Jose PD and San Diego Sheriff Incidences violated Plaintiff's First Amendment rights per freedom of speech - unlawful detainment prohibited Plaintiff from Tweeting about incidences.

29. Pretext exists in above entitled action.

## The Function of Pretext under McDonnell Douglas

12 The question of pretext arises only in the third and final step of the <u>McDonnell Douglas</u> inquiry, after the plaintiff has successfully established a prima facie case of discrimination and the employer has successfully articulated a legitimate, nondiscriminatory reason for the termination. <u>Young v. Dillon Cos., Inc., 468 F.3d 1243, 1249</u> (10th Cir.2006). At this point, the presumption of discrimination created by the plaintiff's prima facie case "simply drops out of the picture," <u>St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502, 511, 113</u> S.Ct. 2742, 125 L.Ed.2d 407 (1993), and "[t]he plaintiff then carries the full burden of persuasion to show that the defendant discriminated on the illegal basis of ... gender." <u>Bryant, 432 F.3d at 1125</u>.

34 Since a plaintiff utilizing the <u>McDonnell Douglas</u> framework normally cannot provide direct evidence of discrimination, a pretext

argument provides a method of satisfying this burden by allowing the factfinder "to infer the ultimate fact of discrimination from the falsity of the employer's explanation." Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 147, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000). A plaintiff shows pretext by demonstrating "such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable factfinder could rationally find them unworthy of credence" and hence infer that the employer did not act for the asserted nondiscriminatory reasons. Plotke, 405 F.3d at 1102 (quoting Morgan v. Hilti, Inc., 108 F.3d 1319, 1323 (10th Cir.1997)). 567 One typical method for a plaintiff to prove pretext is by providing direct "evidence that the defendant's stated reason for the adverse employment action was false." Kendrick, 220 F.3d at 1230. Another common method is a differential treatment argument, in which the plaintiff demonstrates that the employer "treated [the plaintiff] differently from other similarly-situated employees who violated work rules of comparable seriousness" in order \*1168 to show that the employer failed to follow typical company practice in its treatment of the plaintiff. Id. Evidence of pretext may also take a variety of other forms. "[A plaintiff] may not be forced to pursue any particular means of demonstrating that [a defendant's] stated reasons are pretextual." <u>Id.</u> (quoting <u>Patterson v. McLean Credit Union, 491</u> U.S. 164, 187-88, 109 S.Ct. 2363, 105 L.Ed.2d 132 (1989)).

89 However the plaintiff may choose to demonstrate pretext, we have definitively rejected a "pretext plus" standard; in order to survive summary judgment, a plaintiff generally need not provide affirmative evidence of discrimination beyond the prima facie case and evidence that the employer's proffered explanation is pretextual. Jaramillo v. Colo. Judicial Dep't, 427 F.3d 1303, 1312 (10th Cir.2005); see also Doebele v. Sprint/United Mgmt. Co., 342 F.3d 1117, 1135-36 (10th Cir.2003) ("The plaintiff need not show both that the defendant's reasons were a pretext and that the real reason was discriminationthe fact of pretext alone may allow the inference of discrimination."). We do not always require actual evidence of discrimination because, "[i]n appropriate circumstances, the trier of fact can reasonably infer from the falsity of the explanation that the employer is dissembling to cover up a discriminatory purpose.... Moreover, once the employer's justification has been eliminated, discrimination may well be the most likely alternative explanation, especially since the employer is in the best position to put forth the actual reason for its decision." Reeves, 530 U.S. at 147, 120 S.Ct. 2097.<sup>9</sup> 101112 However, it is not always permissible for the factfinder to infer discrimination from evidence that the employer's explanation is unworthy of belief. "[I]f the record conclusively revealed some other, nondiscriminatory reason for the employer's [adverse

employment] decision, or if the plaintiff created only a weak issue

of fact as to whether the employer's reason was untrue and there was abundant and uncontroverted independent evidence that no discrimination had occurred," the fact that the employer's explanation was unworthy of belief would no longer be sufficient to create an inference of discrimination. <u>Id. at 148, 120 S.Ct. 2097.</u>

The same reasoning applies to a plaintiff's attempts to show pretext through evidence of differential treatment; if the employer's differential treatment of similarly-situated employees is "trivial or accidental or explained by a nondiscriminatory motive," such treatment is insufficient to create an inference of discrimination.

<u>Kendrick</u>, 220 F.3d at 1232.

13 This exception to the general rule against "pretext plus" makes sense because the falsity of an employer's proffered explanation, or the existence of differential treatment, defeats summary judgment only if it could reasonably lead the trier of fact to infer a discriminatory motive; where the evidence of pretext supports only nondiscriminatory motives, such an inference is logically precluded and summary judgment for the employer is appropriate. See Miller v. Eby Realty Group LLC, 396 F.3d 1105, 1111 (10th Cir.2005) ("In drawing such inference [of unlawful discrimination], the factfinder must be able to conclude, based on a preponderance of the evidence, that discrimination was a determinative factor in the employer's actions-simply disbelieving the employer is insufficient.").

\*1169 In determining whether a plaintiff's evidence of pretext is sufficient to permit an inference of discrimination and thereby avoid summary judgment, the Supreme Court has noted relevant factors "includ[ing] the strength of the plaintiff's prima facie case, the probative value of the proof that the employer's explanation is false, and any other evidence that supports the employer's case and that properly may be considered" on a motion for summary judgment. Reeves, 530 U.S. at 148-49, 120 S.Ct. 2097. In addition, this court has held that evidence foreclosing a rational factfinder from inferring a discriminatory motive may originate from either the plaintiff or the defendant. For example, we have held that when a plaintiff's evidence supports a nondiscriminatory motive for the employer's action and the plaintiff presents no evidence to undermine that motive, summary judgment for the employer is appropriate. Neal v. Roche, 349 F.3d 1246, 1252 (10th Cir.2003) ("[I]t is enough [to grant summary judgment for the employer] if the plaintiff concedes a hidden motivation which the court concludes is nondiscriminatory ...." (emphasis omitted)); Marx v. Schnuck Markets, Inc., 76 F.3d 324, 328 (10th Cir.1996) ("[I]f a civil rights plaintiff concedes that the real reason for the employer's action was a motive not prohibited under the civil rights laws, such a concession mandates granting of summary judgment to the employer." (citation omitted)); see also Randle v. City of Aurora, 69 F.3d 441, 451 n. 14 (10th Cir.1995) ("[T]he plaintiff's concession of a lawful motive would

take the issue of motive from the jury and preclude the inference of a discriminatory motive...."). We have also upheld summary judgment for the employer based on the employer's own alternative, nondiscriminatory explanations, so long as they remain unrebutted and the employer's credibility has not been so damaged as to render such explanations suspect. See <u>Jaramillo</u>, 427 F.3d at 1309-10 ("[A]s a general rule, an employee must proffer evidence that shows each of the employer's justifications are pretexual.") (quoting <u>Tyler v. Re/Max Mountain States</u>, 232 F.3d 808, 814 (10th Cir.2000)).

Thus, with these considerations in mind, we proceed to consider Swackhammer's evidence that Sprint's explanation for her termination was pretextual.

#### JURY DEMANDED

30. Plaintiff, hereby request a trial by jury, pursuant to California Code Civ Proc § 631 and Rule 38 of the Federal Rules of Civil Procedure. 7th Amendment

#### PRAYER FOR RELIEF

31. Plaintiff request that this Court find in its favor and against Defendant, and that this Court grant Plaintiff the following relief:

a. Enter judgment for Plaintiff; Plaintiff establishes elements 1-24; a presumption of discrimination exists - ask that Defendants produce evidence of legitimate, nondiscriminatory reasons for adverse hiring actions. Plaintiff prays Judge and jury will determine Plaintiff as

prevailing party and award monetary damages for \$10,237,000.00 1 million. 2

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spectfully submitted.

Dated this day of August, 2016 At Santa Barbara County Law Library, Jeremiah W. Balik, Pro Per

## EXHIBITS IN SEPARATE FILING

32. JURAT -A notary public or other officer completing this certificate verifies only the identity of the individual, who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Parhara

Subscribed and sworn to (or affirmed) before mo on this

- Jeremiah W. Balik

proved to me on the basis of satisfactory evidence to be the person(8) who appeared before me.

23

Signature

(Seal)

ROYA ASNAASHARI Notary Public - California Santa Barbara County Commission # 1996377 My Comm. Expires Oct 30, 2016

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Many Jan				10
	IN THE IOWA DISTRIC	COURT FOR BLACK HAWK COT	DNIY	
THE STATE OF IOWA,		Criminal Case No	SMCRI	17928
Vs.	Plaintiff,	)		
Jeremich Willi	and Rahly	) RECORD OF INITIAL	APPEARANCE	
	Datimitani	) OF DEFENDANT CHA		inel
PINSSN 472-94	-1×13	) SIMPLE MISDEMEAN	iok	23rd 10:30
	CONTRACT BARRIES	)		10:30
The defendant appeared before	e the undersigned, having been arre	sted under the (authority of a warrant	(without a warrant)	10
for the offense(s) of	Harassmeut	34		
The charge was read to the defined defendant.    Acknowledged that he/she objected that he/she was well refused to give his/her come the Court informed the defending to review any conditions imposed on him/her.    RIGHT TO COUNSEL:	(The following shall endant and he/she was given a cop- was charged under his/her correct a rongly named and gave his/her rigit ect name or did not object that he/s ant of the defendant's right to coun his/her release; and that the defendance.  Upon establishing eligibility ng (4th & Sycamore Street) (319) with the defendant is incarcerated - jail personnel boot is released.	om the complaint or affidavits filed the cause to believe that an offense has be completed in all cases). The defendant was asked whether is to make as wrongly named as wrongly named as the circumstances, under which that is not required to make a statement as required by Section 815.9, Iowa C 291-2535 is appointed to represent that to determine if he/she qualifies us to assist.	he/she was charged under the defendant might secure and that if he/she does, code, IT IS HEREBY OR, the defendant at public exp ander that program.	r his/her right name and the r his/her right name and the e pretrial release, and the it may be used against
Defendant stated he/she will Defendant states he/she does	employ Privat	s/her right to be represented by count	to represent him/her.	
PLEA: SOPTION A D.C. L.		saler right to be represented by couns	sel.	
PLEA: OPTION A. Defendant pleas NO OPTION B. This case shall be so	of GUILTY. Trial is scheduled for	or the day of Rocket Docket on the day of	, 20	, atm.
				, 20 at
OPTION C. Defendant requested .m.	I time to plead. Arraignment is co	ntinued to the day of		20 at
OPTION D. Defendant entered a	plea of GUILTY to	and in Co	10	
plus Court costs	of S Fi	and is fin ne and Court costs are to be paid by	led 2	plus surcharge
OPTION E. Restitution to	starting			
THER SENTENCE:	by	. Defe	ndant to provide proof o	f restitution to the Court.
	Market Street			
Defendant was advised or his/her address. Defendant states his/sephone number is Defendant was advised or his/her is Address to the sum of Sephone number is Defendant was advised or his/her is Address to the sum of Sephone number is Defendant was advised or his/her is Address to the sum of Sephone number is Defendant states his/sephone number is Defendant states his/	TRIAL OR ARRAIGNMNET:	Coder Repro	Px # 4 15 In 5	and his/her
DATED this 35th day of	Derinal Services or on a Writte	Promise to Appear.		

Copies to: White-Clerk, Yellow-Defendant,

If you need assistance to participate in court due to a disability, call the disability coordinator at (319) 833-3332. Persons who are hearing or speech impaired may call Relay Iowa TTY at 1-800-735-2942. Disability coordinators cannot provide legal advice.

ou can review the status of your case online at www.iowacourtsonline.org

## BEECHER, FIELD, WALKER, MORRIS, HOFFMAN & JOHNSON, P.C.

HUGH M. FIELD
JOHN R. WALKER, JR.
RICHARD R. MORRIS
THERESA E. HOFFMAN
ERIC W. JOHNSON
KEVIN D. AHRENHOLZ
D. RAYMOND WALTON
JOHN J. WOOD
ADNAN MAHMUTAGIC
COREY R. LORENZEN
KATE B. MITCHELL
KIRSTEN N. ARNOLD
STEPHEN P. SKRAM

LAWYERS
COURT SQUARE BUILDING - SUITE 300
620 LAFAYETTE STREET
P.O. BOX 178
WATERLOO, IOWA 50704
TELEPHONE: (319) 234-1766
FAX: (319) 234-1225

W. LOUIS BEECHER (1921-2012) W.L. BEECHER (1891-1976) JOHN W. RATHERT (1932-2010)

BRANCH OFFICES-BY APPOINTMENT

508 N. HWY 218 LA PORTE CITY, IOWA 50651 TELEPHONE: 319/342-4095

www.beecherlaw.com

April 22, 2014

Sent via certified mail

Jeremiah Balik 4931 Muirfield Drive SW #4 Cedar Rapids, IA 52404

> RE: Next Generation Wireless/Nicole Knebel, Director of Sales Cedar Falls Police Dept. Incident No. 14-37725

Dear Mr. Balik:

This office represents Next Generation Wireless and its associates in connection with their employment with the NGW companies. It has been brought to our attention that you have been contacted by Officer Jon Gerzema of the Cedar Falls Police Department concerning harassing conduct and intimidating behavior directed at NGW and specifically its Director of Sales, Nicole Knebel.

This letter should serve as a formal request on behalf of NGW and any of its employees that you cease and desist all communication with Next Generation Wireless, Nicole Knebel, or any of its employees immediately. Any further communication from you, in any form, directed at any of the employees or associates of Next Generation Wireless will result in a formal complaint that you be charged with harassment and/or a civil suit against you for injunctive relief. This request for a cease and desist of any and all communications from you encompasses all Next Generation Wireless locations including but not limited to those in the State of Iowa or elsewhere.

Sincerely,

John J. Wood

for BEECHER, FIELD, WALKER, MORRIS, HOFFMAN & JOHNSON, P.C.

JJW/smo cc: Officer J. Gerzema, CFPD Amy Larsen, PHR/HR Manager



March 13, 2014

Jeremiah Balik 5931 Muirfield Drive SW #4 Cedar Rapids, IA 52404

Dear Jeremiah,

We appreciate you submitting your resume and supporting information for our Business Account Executive position.

Although we appreciate your interest in Next Generation Wireless, we are continuing the process with other candidates we believe have the knowledge and experience to accomplish the goals we have outlined for our company.

We are certain you will find a position which suits your strengths and believe you have a great deal to contribute. Please accept our best wishes for your future.

Sincerely,

Amy Larsen, PHR

Human Resources Manager

**Next Generation Wireless** 

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RP 302 Revieruer

Declaration in support or suppoena on leverse. CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Solutions and DECLARATION

385 H 380

1614 W. Temple Street Los Angeles, CA 90026

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/5/2016

KURT SEDERMAN



Order#: 8196/SUB2

Form Adopted for Mandatory Use Judicial Council of California SUBP-002 [Rev. January 1, 30, 2] CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Code of Civil Production of Documents, Electronically Stored Information, and Things at Legal Solutions

Trial or Hearing and DECLARATION

Q Plus

Code of Civil Procedure.

Legal § 1985 et seq.

REPLY TO:

- 135 HART SENATE OFFICE BUILDING WASHINGTON, DC 20510-1501 (202) 224-3744 e-mail: grassley.senate.gov/contact.cfm
- 721 FEDERAL BUILDING 210 WALNUT STREET DES MOINES, IA 50309-2140 (515) 288-1145
- 111 7TH AVENUE, SE, Box 13 SUITE 6800 CEDAR RAPIDS, IA 52401-2101 (319) 363-6832

## United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

REPLY TO:

- 103 FEDERAL COURTHOUSE BUILDING 320 6TH STREET SIOUX CITY, IA 51101-1244 (712) 233-1860
- 210 WATERLOO BUILDING 531 COMMERCIAL STREET WATERLOO, IA 50701-5497 (319) 232-6657
- 201 WEST 2ND STREET **SUITE 720** DAVENPORT, IA 52801-1817 (563) 322-4331
- 307 FEDERAL BUILDING 8 SOUTH 6TH STREET COUNCIL BLUFFS, IA 51501-4204 (712) 322-7103

April 16, 2014

Mr. Jeremiah Balik 5931 Muirfield Drive SW Apartment #4 Cedar Rapids, Iowa 52404-7372

Dear Mr. Balik:

Thank you very much for your information regarding the parcel that you mailed with the United States Postal Service. glad to have the benefit of the details of your particular case.

In order to be more responsive to your concerns, I have taken the liberty of contacting the United States Postal Service with regard to this matter. I will be back in touch with you as soon as the response is received in my office.

Thank you again for your information.

Sincerely,

Charles E. Grassley United States Senator

Mayor Rahm Emanuel, via a surogate Stole my mail. Rep Upton has also tampered with mail.

Committee Assignments:

**AGRICULTURE** BUDGET **FINANCE** 

CO-CHAIR INTERNATIONAL CONTROL C

SELECT COMMITTEE ON INTELLIGENCE - VICE CHAIRMAL COMMITTEE ON APPROPRIATIONS COMMITTEE ON THE JUDICIARY COMMITTEE ON RULES AND

**ADMINISTRATION** 

## United States Senate

WASHINGTON, DC 20510-0504 http://feinstein.senate.gov

May 25, 2016

Mr. Jeremiah Balik 1223 Wilshire Blvd, # 777 Santa Monica, California 90403

Dear Mr. Balik:

- FEINSTEIN

:ALIFORNIA

Just a brief note to let you know I received your recent correspondence. I am always glad to hear your thoughts and ideas.

Thank you for contacting me again with your concerns.

With warmest personal regards.

Sincerely,

Dianne Feinstein

United States Senator

DF:be

Thelped with U.S. Marshals / Process Service ISSUE.



## CITY OF SAN JOSÉ, CALIFORNIA

201 W. MISSION STREET P.O. BOX 270 SAN JOSE CA 95103-0270 (408) 277- 4212

CHIEF OF POLICE Edgardo Garcia

May 2, 2016

Mr. Jeremiah Balik 1223 Willshire Blvd 777 Santa Monica, CA 90403

RE: Request for Summary of Complaint Statement

Dear Mr. Balik:

As per your request, included herein is a copy of your complaint summary.

Complaint Summary for IA case number I2016-0098:

Mr. Jeremiah William Balik went to the Internal Affairs Unit on 05/02/2016 and filed a complaint against Officer Enterline #3821, Officer Kirby #3817 and Sergeant Jackson #3133. Mr. Balik said SJPD officers were working in conspiracy with Chicago Mayor Rhan Emanuel and Michigan U.S. Congressman Fred Upton to find out where he was at and to work as a "deterrent." Mr. Balik complained the officers "unlawfully patrolled" based upon the conspiracy. Mr. Balik complained he was unlawfully detained and unlawfully searched by Officer Enterline. Mr. Balik complained his vehicle was unlawfully searched by Officer Kirby.

The San Jose Police Department encourages members of the community to bring us any concerns they have about the service we provide. Your input is important and will assist us in providing better services to the community. Thank you for taking the time to bring this matter to our attention. If you have any questions, you may contact me at 408-277-4094.

Sincerely,

Officer Mark Mabanag #3446
Internal Affairs Unit

LAW OFFICES

## ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

A PROFESSIONAL CORPORATION

JOHN G. BARISONE
ANTHONY P. CONDOTTI
GEORGE J. KOVACEVICH
BARBARA H. CHOI
LAUREN C. VALK
CASSIE M. BRONSON
REED W. GALLOGLY

HEATHER J. LENHARDT

PO BOX 481 SANTA CRUZ, CALIFORNIA 95061-0481 WEBSITE: WWW.ABC-LAW.COM

TELEPHONE: (831) 423-8383
FAX: (831) 576-2269
EMAIL: ADMIN@ABC-LAW.COM

July 13, 2016

Hon. James E. Herman Superior Court of California County of Santa Barbara 1100 Anacapa Street P.O. Box 21107 Santa Barbara, CA 93121-1107

> Re: Balik v. Half Moon Hotel, et al. Case No. 15CV02604

Dear Judge Herman,

My office serves as the City Attorney for the City of Santa Cruz and represents Santa Cruz Police Chief, Kevin Vogel. Recently, my office learned of plaintiff, Jeremiah Balik's motion to compel testimony of Police Chief Kevin Vogel at a deposition that is to be heard on July 20, 2016 in Department 1.

Police Chief Vogel is not a party to this action and is in no way involved in the above-referenced action. He was also never served with the deposition subpoena. I filed an opposition to this motion to compel on behalf of Police Chief Vogel stating the multiple grounds supporting denial of this motion.

Unfortunately, I will not be able to attend the hearing on this motion in person or by phone, as I will be out of state on that date. Thus, I would like to request that this Court confirm that my appearance at the court hearing is not needed, and otherwise excuse my absence at the hearing.

Sincerely,

Barbara H. Choi

cc: Plaintiff, Jeremiah Balik (via U.S. Mail)

Defendants' counsel, Frank A. Weiser, Esq. (via U.S. Mail)

STREET ADDRESS:	CALIFORNIA, COUNTY OF SANTA 118 East Figueroa	BARBARA	FOR COURT USE ONLY	
CITY AND ZIP CODE: BRANCH NAME:	Santa Barbara, California 93101 Figueroa Division			
PLAINTIFF: People of the State of California				
DEFENDANT:	Jeremiah William Balik			
	10800 Olson Dr 212 RNCHO CORDOVA, CA 95670			
51.50				
PLEA AND NOTICE OF COURT TRIAL (CVC 40519) CASE NUMBER: \$2286				
hereby enter a plea	of "NOT GUILTY" to the violations	(s): IVC4152.5 IV	/C4000.4 Cite File Date: 06/09/16	
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By submitting a written	plea, you are deemed to have waive	ed the right to be tried within	the statutory period. Couldy Sherith	
I promise to appear at t following: I may be fou	he Court Trial. I understand that if	I fail to appear at my court tr d at the trial, my cash bail, i	ial it may result in one or more of the f posted, may be forfeited, a warrant	
qualified member of the trial heard by a judge c	State Bar appointed by the Presidi	ing Judge of the Superior Co	rary judge. The temporary judge is a ourt. You have the right to have your ard by a temporary judge unless you	
I do not agree that r	ny case may be tried by a temporar	y judge under California Rul	e of Court 2.816.	
	UIDEBUID ATTO	EANTA Monica,	CA 90403	
Street Address		ity do	State Zip <u>424-280-29</u> 81	
Date Note:	Sight	audre C	Phone Number	
you may have the 2. If you have exhibi 3. If you wish to have	sses, you must arrange for their app e court issue a subpoena to ensure ts, you must bring them with you or e an attorney, he/she must appear required, indicate the language he	their appearance. Affidavits n the trial date. with you on the trial date and	from witnesses are not acceptable.	
Fach nady may be a		AL RE-SETTING POLICY		
for a re-set must be re may be made in perso	ceived in the clerk's office no later t	han then (10) calendar days j be reset within 60 days of th	rements are waived above. A request prior to the court trial date. A request previous court trial date. Requests	
		THIS LINE - FOR COURT USE	ONLY	
	NOTICE OF	COURT TRIAL DATE		
Court Trial Date: 07/	12/16 Time: 1:30 pm	Dept: SB3 i	n the Court listed above.	
Notice sent to Officer: _	Scherbarth, Michael	Agency: SBSO	Date of Citation: <u>05/31/16</u>	
Notice sent to Officer:_		Agency:	Date of Citation: <u>05/31/16</u>	
Dated: (0 - 10 -	16	Darrel E. Parker Execu	utive Officer , Deputy	
		1 1		



## Superior Court of California, County of Santa Clara

## Santa Clara Courthouse

Street Address:

1095 Homestead Road Santa Clara, CA 95050

Mailing Address:

191 N. 1st Street

San Jose, CA 95113

## **COURTESY NOTICE**

Failure to respond to this notice by the date due may result in your bail being increased, a \$300 Civil Assessment being imposed pursuant to Penal Code Section 1214.1, a hold/suspension being placed on your driver's license pursuant to Vehicle Code Section 40509.5, and/or a warrant being issued for your arrest. Your failure to appear may be deemed your consent to Trial by Written Declaration (in absentia) pursuant to Vehicle Code Section 40903, thereby waiving your right to be present at trial, to testify and/or present evidence on your behalf, to be represented by an attorney, to confront and cross-examine the witnesses against you, and to use the subpoena power of the court to compel the attendance of witnesses on your behalf.

JEREMIAH WILLIAM BALIK 1223 WILSHIRE BLVD 777 SANTA MONICA, CA 90403

\*7-16-TR-484154\*

\*7-16-TR-484154\*

\*7-16-TR-484154\*

Case Number: 7-16-TR-484154

Citation Number: K361528

Violation Date: February 12, 2016 Violation Code: 1 VC-22101D-I

**DATE DUE: May 16, 2016** 

Payment can be made in person, by mail, or your case may be eligible for payment through the internet at https://www.paybill.com/sccsuperiorcount or by calling the credit card interactive telephone system at (866)923-2732. Additional convenience fee will be charged.

Make checks payable to "Clerk - Superior Court". include our Case Number on your payment or any correspondence. PLEASE MAKE PAYMENT IN U.S. CURRENCY.

DO NOT MAIL CASH.

For more specific information, you may now access your case from the "Public Access Case Information Site" www.sccaseinfo.org or visit http://www.scscourt.org/ (408)556-3000.

Hours of Operation: MONDAY - FRIDAY 8:30 AM - 3:00 PM

Please read all information and select ONE option to clear your citation by the Date Due. Return this Courtesy Notice with your payment and your selected option.

PROOF OF CORRECTION: Specific instructions for obtaining proof of correction for correctable violations are on the back of your citation. Have the violation(s) corrected and signed off by a police officer. Vehicle registration and driver license violations may also be signed off by the DMV or you may present proof to the clerk of the court. VC16028 (insurance) violations can only be dismissed upon proof to the clerk of the court of insurance coverage that was valid on the date of the citation. Your Violation is not eligible for Proof of Correction if N/A is printed in the Amount Due box. ☐ TO PAY YOUR TICKET (BAIL FORFEITURE): You may pay and close this citation by bail forfeiture with no further action necessary. Upon payment of the "Amount Due", the case is closed and no further action is required. If reportable, the conviction will be Forfeiture forwarded to the DMV. If you are submitting proof of correction on a correctable violation and paying bail forfeiture for another violation, you will pay the "Amount Due with Proof of Correction" (see amount in box above). If you choose to bail forfeit on your case, you may be eligible for monthly payments. If eligible, there will be a \$35 administrative fee added to the total amount due. Payments must be scheduled in person and you must pay 10% of the total amount due to begin your payment plan. REQUEST COURT APPEARANCE Your appearance is: OPTIONAL To request an <u>Arraignment</u> date without posting bail, you may appear in person at the Clerk's office. You may also mail the "Amount Due for a Court Appearance" and select the hearing type from the two options below Amount Due for a to schedule a court appearance by mail. If your appearance is mandatory, you MUST arrange a court appearance date. No other options are available to you and you are not eligible for a Trial by Declaration - Appearance to hear your charges, advisement of rights and entry of plea COURT TRIAL - Contest the citation (Referral to Traffic School after Trial is at the discretion of the Judicial Officer.) ☐ TRAFFIC SCHOOL (Traffic School must be attended in the State of California): A clerk may grant a request to attend traffic school for an eligible violation if you have not attended for a

Amount Due with **Proof of Correction** 

N/A

Amount Due for Bail

\$ 289.00

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**Court Appearance** 

\$ 289.00

violation that occurred within 18 months of your present violation and you have a valid driver's license. All correctable or non-moving violations must be cleared and proof returned to the court with your payment. Traffic school information will be given or mailed to you upon receipt of your traffic school payment. If you do not receive your traffic school information within 3 weeks, please contact the Court. There is an additional fee that the school will charge which is separate from the fee you pay the Court. You are not eligible for traffic school if you have a commercial driver's license and you were driving a commercial vehicle when you were cited, or if no amount appears in the "Amount Due for Traffic School" box.

NOTICE: If you are eligible and decide not to attend traffic school, your automobile insurance rates may be adversely affected and your option to attend may be denied if not taken at this time. If you complete a traffic violator school program, one conviction in any 18-month period will remain confidential and the point masked from public view.

Amount Due for Traffic School

\$ 331.00

Superior Court of California County of Santa Clara
TN-0001 [Revised 8-8-13]

Remany

to Federal

# THE SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA BARBARA

## TENTATIVE RULING

Judge James Herman
Department 1 SB-Anacapa
1100 Anacapa Street P.O. Box 21107 Santa Barbara, CA 93121-1107

## CIVIL LAW & MOTION

Jeremiah W. Balik v. Half Moon Hotel, et al

Case No:

15CV02604

Hearing Date: Wed Jun 15, 2016 9:30

Nature of Proceedings: Motion Compel Testimony

TENTATIVE RULING:

Plaintiff's motion to compel testimony is denied.

In this action, plaintiff Jeremiah W. Balik, a resident of Santa Barbara, seeks monetary damages for property allegedly stolen from his hotel room while a guest at defendant Half Moon Hotel, located at 3958 Sepulveda Boulevard, Culver City, California 90230. Defendant Ken Patel is the owner of the hotel and defendant Frank A. Weiser is Mr. Patel's attorney. Among other claims, plaintiff alleges that his iPhone6 charger was stolen by a staff member of the hotel at the request of Chicago Mayor Rahm Emanuel because Mayor Emanuel was trying to prevent plaintiff from communicating with his girlfriend. Super Model Samantha M. Hoopes. Plaintiff filed his complaint on August 21, 2015. Half Moon Hotel, Mr. Patel, and Mr. Weiser answered the complaint with a general denial on September 25, 2015.

On June 7, 2016, plaintiff filed the within motion entitled "Motion to Compel Testimony" with a hearing date of June 15, 2016, just eight days later. In the motion, plaintiff asks the court to compel the testimony of Robert H. Aaronson, an independent auditor with the Santa Cruz Police Department. Plaintiff claims that Mr. Aaronson has knowledge concerning an incident at Holy Cross Church that implicates Mayor Emanuel in a conspiracy against plaintiff.

Plaintiff's motion will be decied. The motion is defective because there is no proof of service attached to the motion showing that it was served on any of the other parties to the action. Code Civ. Proc. §1013a. The motion also does not provide adequate notice. A motion to compel must be filed and served at least 16 court days before the hearing. Code Civ. Proc. §1005, subd. (b) Eight days' notice is insufficient.

	MC-030
#777 Santa Monica, CA 90403  TELEPHONE NO.: 424-280-2981 FAX NO (Optional): 805-642-7177  E-MAIL ADDRESS (Optional): AngelsCamp3D@gmail.com Sherri R.	POR COURT USE ONLY  ORIGINAL FILED Superior Court of California County of Lot Arcelos  MAR 1 4 2016  Carter, Executive Officer/Clerk nabella Figueroa, Deputy
DECLARATION	15K05516

On or about Nov 19, 2014 Plaintiff, Jeremiah W. Balik, received email from Defendant. Attached hereto as Exhibit 1 Defendant employee Dominic Martin states "Also, we provide a training session for new customers at one of our Madison retail stores." Plaintiff signed agreement with Defendant in late December 2014 in above captioned case and mailed it via USPS to Dominic on Jan 5th, 2015 Tracking#9505 5111 1484 5005 4953 30 On or about Nov 25, 2014 Plaintiff receives 20-25 pints of super-premium ice cream from Defendant via FedEx. [Note: first sent to San Diego, where Plaintiff was living. Resent to LA - Plantiff relocates to open up first Scoop Shop in Santa Monica - #1 selling market for super premium ice cream] Plaintiff gives Defendants pints samples to then girlfriend Samantha Hoopes\her agent Victor Del Toro at Elite Model Management in BH, Tom Hanks\Playtone Prod Et al, Channing & Jenna Tatum, agent Louise Ward et al at UTA Etc On or about Nov 26, 2014 Defendant employee Dominic states in email "The only thing left to do in moving forward is to come to Madison to do training". Attached hereto as Exhibit 2. Plaintiff coordinates with then business investor John Smucker [P#301-775-3920 Part of Smucker's Jelly family] in Washington, DC to see if he can attend training/dairy tour in Madison, WI. John cannot attend.

Plaintiff is an OIF Veteran, works with Veteran Business Outreach Center in Sacramento per loans to open up Scoop Shops. Attached herto as Exhibit 3 Plaintiff drives to Sacto VBOC in early February 2015 to meet with officials. [Plaintiff spoke with Real Estate brokers, had location at 707 Pico Blvd in Santa Monica, CA Defendant approved of location Attached hereto as Exhibit 4]

Plaintiff & Defendant agree to do training/dairy tour on February 23, 2015 in Madison, WI. Plaintiff flies to Milwaukee, then rents Hertz car to drive to Madison, WI. Plaintiff has a great training session and dairy tour. Discusses "Go to Market" strategy. Attached hereto as Exhibit 5 After Madison, WI visit, Plaintiff gets "Radio Silence" from Defendants - [Note: Plaintiff had opportunity to sell Defendants pints in a local LA pizza chain Mulberry Pizza out of Beverly Hills. Plaintiff promised them samples] Plaintiff was harmed by Defendants "Breach of Contract" and is entitled to relief. [Plaintiff alleges "Radio silence" implicates Rep Fred Upton/MI

I declare under penalty of perjury under the laws of the State	of California that the foregoing is true and correct.
Date: March 14th 2016	
Jeremiah W. Balik (TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
	☐ Attorney for ☑ Plaintiff ☐ Petitioner ☐ Defendant ☐ Respondent ☐ Other (Specify):



Twitter handle: @appdriventoys [Playtone Prod, Santa Monica, CA, Circa Dec 2015] Tom Hanks, Jeremiah W. Balik & Randy Fechter [Witness]



## CELLARSY COP

ERMATAH W. BALIK 1223 Wilshire Blvd. Santa Monica, CA 90403 (42 g 280-2981 Fax: (805) 642-7177 shteren entertainment@gmail.com

COMPORMED COPY

JEL 13 2016

Sharri R. Carrer, Executive Officer Clinic By: Kriedna Vergas, Depoty

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JERENIAH W. BALIK,

Plaintiff,

CHOCOLATE SHOPPE ICE CREAM

COMPANY, INC.

In Pro Per

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Defendant.

Wison Casa No.: 15K05516 DE LUNES

ADDITIONAL EVIDENCE - SUBPOENAS OF US REP FRED UPTON, MAYOR RAHM
EMANUEL, GOV JERRY BROWN AND
DEFENDANT CEO, DAVE DEADMAN &
DISMISSAL PAPERWORK FROM INSTANT CASE #15cv02604/SBSC

Date: November 8th, 2016 Time: 8:30 AM Dept: 77 Room 736 Hon Lu/Orozco

Submitting hereto, dismissal paperwork from instant case #15cv02804, Santa Firewra Superior Court. Plaintiff wants court to note: Plaintiff la not a "Vexatious Litigant". Plaintiff alleges CCP \$391.7 as securities legal strategy devised against the Plaint of by Gov. perty Driven. Also submitting hereto, subpoenas of US Congressman Fred upton/RCC Chair 6th District of MI, Mayor Rahm Emanuel/Chicago, and perendants CEO, Dave Deadman. Plaintiff expects motion for Default Suddment pursuant to CCP\$558 to be granted as a matter of law. [Note: "Summone" proof provided via Twitter Legal

Dated this Lib day of July, 2016

Jeremiah W. Balik, Pro Per at Santa Barbara County Naw Library

# Getting a 'Bigfoot' in the Door Reserve petty officer develops film concepts for Hollywood

By GREGORY KANE Northwestern University student

movie about the mythical creature Bigfoot. after Sept. 11, 2001, is also aspiring toward Babk, who calisted in the Navy Reserve could seem worlds apart. But AO3 Jeremiah success as a Hollywood producer with a consedy that has attracted interest from A Navy career and a Hollywood career

Balik has received strong interest from describes his role in the Navy as "supportready, helping tellow Sailors and maintainclassroom training, getting fully medically CVNE 1169, which supports the Atlantic rate. My drill weekends consist of heavy ing active stuty members in my designated USS Harry Truman (CVN-75) and lect. He has done annual trainings on the AO3 Balik is a student at Northwestern

Document 1

entitled 'Angels Camp: The Bigfoot Hanks came through a project called before this summer. blockbuster with heart and hopes for a sale Balik describes the movie as a summer 'Checkers," which Balik developed with Northern California gold-mining town. follywood studios for his Bigfoot project REGUERION The opportunity to work with Tom an action-adventure set companies and major W MH

> Playtone Production Company in Los with Bulk to discuss the project at his

F. Kennedy ball cap, a ship he visited dur-ing Fleet Whek in New York City. Balik described Hanks as very approachable for a Balik presented Hanks with a USS John

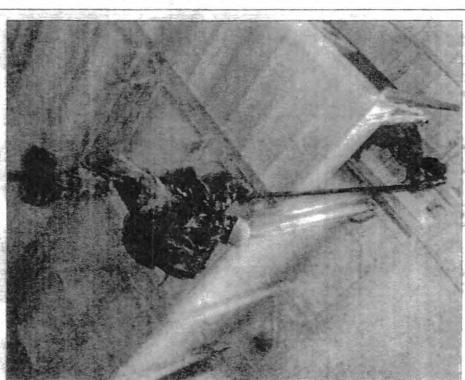
agement to keep pursuing the desires of my heart in the face of all adversity." story and movie gave me hope and encourdevelop as a producer and a Sailor. suited for production work." Balik credits felt my background and talents were more how things worked behind the scenes and direction for Balik. "While on the set, I saw asked a lot of questions," Balik recalls. "I The Pretender in 1996 sparked a new "Antwone Fisher is a great Navy story -- his Then, a bit purt on the television show

Officer, CVNE 1169. hard work, whether in the Navy Reserve or Great things usually come as a result of and works very hard to reach his goals. continues to cultivate. "It is great to have a much of his success to the relationships he initely accelerated his life. Bulk credits Lt. Candr. Bob Gerstemeier, Executive working at your civilian occupation," said saffor that is passionate about his pursuits true to its adventising, the Navy has def-

screenwriter Randy Fechter who was an

after reading the first draft, and later met Army. Hanks provided feedback to Fechter Entertainment Specialist with the U.S.

in high school. Balik acted in school theater over since developing a passion for movies Balik has pursued Hollywood dreams while living in Los Angeles and New York ued to pursue on acting career on the side productions at Drake University and contin-



Dropping in

(CVN 65). Navy photo by PH2 Milosz Retersk the hangar bay aboard the nuclear-powered aircraft carrier USS Enterprise Disposal Team, Mobile Unit Six (EQDMU-6), Detachment 14, fast-ropes in Atlantic Ocean - HM2 Stephen Serio, a member of Explosive Ordnance



US Sen. Barbara Boxer

Blurry pix of Billy Dec, Jeremy Piven from Piven Theatre Charity event



#### CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE C • OAKLAND, CALIFORNIA 94612-2010

Police Department Internal Affairs Division Telephone Device for the Deaf (510) 238-7629 Administrative Section (510) 238-3161 Investigation Section (510) 238-3161 Fax (510) 238-3014

June 24, 2016

Jeremiah Balik 1223 Wilshire Boulevard #777 Santa Monica, CA 90403

RE: IAD File Number: 16-0125

Dear Mr. Balik:

You initiated a complaint with the Oakland Police Department (OPD). An investigation into the allegations has been completed. The allegations and investigative findings are listed below:

Administratively Closed – No Manual of Rules Violation – Complainant alleged "Oakland PD has engaged in unlawful patrolling in the past". The complainant has not reasponded to attempts to obtain further information. The complaint lacks specificity and the complainant is unable to provide further clarification necessary to investigate the complaint.

The Department apologizes for any inconvenience this incident may have caused you. Should you have any questions regarding this matter, please telephone me at (510) 238-3161 on any weekday between 9:00 AM – 5:00 PM. You may also file a complaint with the Citizen's Police Review Board. Their telephone number is (510) 238-3159.

Sincerely,

Allan Steinberger Lieutenant of Police Internal Affairs Division

AS: md

1 MICHAEL GHIZZONI, COUNTY COUNSEL MICHELLE MONTEZ, DEPUTY (SBN202989) SCOTT GREENWOOD, DEPUTY (SBN 266256) 2 COUNTY OF SANTA BARBARA 3 105 E. Anapamu St., Suite 201 Santa Barbara, CA 93101 4 (805) 568-2950 / FAX: (805) 568-2982 5 Attorneys for Santa Barbara Sheriff's Office 6 7 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA 9 FOR THE COUNTY OF SANTA BARBARA 10 ANACAPA DIVISION 11 12 JEREMIAH W. BALIK, Case No: 15cv02604 13 **Plaintiff** 14 NOTICE OF MOTION AND V. 15 **MOTION TO QUASH DEPOSITION SUBPOENA:** POINTS AND AUTHORITIES; 16 DECLARATION OF SAMUEL D. 17 GROSS, CHIEF DEPUTY Date: June 15, 2016 18 HALF MOON HOTEL, FRANK WEISER COUNSEL, Time: 9:30 a.m. 19 Dept.: 1 Defendant. 20 21 PLEASE TAKE NOTICE that on June 15, 2016 at 9:30 a.m., or as soon 22 thereafter as the matter can be heard, in Department 1 of this Court, located at 1100 23 Anacapa Street, Santa Barbara, California, County of Santa Barbara, on behalf of 24 Samuel D. Gross, Chief Deputy, Santa Barbara Sheriff's Office ("Chief Gross"), will, 25 and hereby do, move the court for an order that the subpoena served by Plaintiff

COUNTY COUNSEL County of Santa Barbara 105 East Anapamu Street Santa Barbara, CA 93101 (805) 568-2950

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Motion to Quash Subpoena

This Motion to Quash is made on the grounds that Plaintiff failed to comply

Jeremiah W. Balik ("Plaintiff") in the above entitled action, be quashed.

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County of Santa Barbara

105 East Anapamu Street Santa Barbara, CA 93101 28

COUNTY COUNSEL

(805) 568-2950

with procedural requirements, no personal knowledge by Chief Gross and therefore not likely to produce relevant evidence, no compelling reasons set forth to justify subpoena of a high-ranking official, and appearance of harassment.

This motion is based upon this Notice, the pleadings, records and papers on file in this action, on such evidence as may be presented at the hearing of the motion, and on the attached Memorandum of Points and Authorities and Declaration of Samuel D. Gross, Chief Deputy.

Dated: June 13, 2016

MICHAEL GHIZZONI

COUNTY/CQUNSE

Michelle Montez

**Deputy County Counsel** Attorneys for County of

Santa Barbara

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## COUNTY COUNSEL County of Santa Barbara 27

County of Santa Barbara 2 / 105 East Anapamu Street Santa Barbara, CA 93101 '805) 568-2950 28

#### **POINTS & AUTHORITIES**

#### I.

#### **BACKGROUND**

On May 31, 2016, Plaintiff Jeremiah W. Balik ("Plaintiff") served a "Deposition Subpoena for Personal Appearance and Production of Documents and Things" (Exhibit A) (hereinafter referred to as "Subpoena") upon Sheriff's Office Chief Deputy Samuel D. Gross ("Chief Gross") in the above-referenced litigation. The County of Santa Barbara, the Santa Barbara Sheriff's Office, and Chief Gross are not parties to this litigation. It appears that a mandatory settlement conference is scheduled for the same date and time as listed on the Subpoena.

II.

#### **ARGUMENT**

#### A. Motion to Quash is Authorized

California Code of Civil Procedure § 1987.1 provides that a court may "make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders."

#### B. Failure to Comply with Procedural Requirements

Plaintiff's Subpoena is improper because Plaintiff improperly noticed the Subpoena as a Deposition Subpoena as opposed to a Subpoena to compel a non-party's attendance at a trial or hearing. Furthermore, Plaintiff did not remit witness fees to the County pursuant to Government Code § 68097.2. The County is entitled to the "full cost to the public entity incurred in paying the peace officer..." and to a \$275 dollar deposit. (Gov. Code § 68097.2 (b).) If the actual expenses exceed that amount,

the requesting party shall pay that amount to the County. (Gov. Code § 68097.2 (d).) The County does not waive these witness fees, including mileage.

#### C. No Personal Knowledge and Therefore Not Likely to Produce Relevant **Evidence**

As evidenced in Chief Gross' Declaration, Chief Gross has no personal knowledge of the events related to the litigation at hand. (Decl. of Chief Gross, Para. 10.) Chief Gross' only knowledge is what Plaintiff relayed by hundreds of emails and one in-person conversation. Thus, the proposed testimony by Chief Gross would not likely produce relevant evidence.

The court may quash a subpoena for appearance of a witness at trial, even where the subpoena is valid on its face, where the motion is reasonably made by a witness and the facts justify such an action. (Code Civ. Proc. § 1987.1.) In Application of Finn, the California Supreme Court found that the facts justified the trial court's decision to quash a subpoena, which was regular on its face, because subpoenaing party failed to show that the witness could offer relevant testimony and that the witness had personal knowledge of the matters relating to the charges. (Application of Finn (1960) 54 Cal.2d 807, 813.) Similar to the witness in Application of Finn, the witness subpoenaed here do not have personal knowledge of the matters involved in the instant litigation and could therefore not offer relevant testimony at trial/hearing/deposition.

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# D. High-Ranking Public Officials Cannot Be Forced to Appear in Court Absent Compelling Reasons

In addition, because Chief Gross is a high-ranking public official, his testimony is improper because there is no compelling reason to require his testimony. California courts have consistently held that high-ranking public officials "should not be required to give a deposition in his [or her] official capacity in the absence of 'compelling reasons." (State Bd. of Pharmacy v. Super. Ct., (1978) 78 Cal. App. 3d 641, 644; see also Civelletti v. Muni. Ct., (1981) 116 Cal. App. 3d 105, 110 (1981); and Nagle v. Super. Ct., (1994) 28 Cal. App. 4th 1465.) Thus, a "top governmental official may... only be deposed upon a showing that the information to be gained from such a deposition is not available through any other source." (Nagle, supra 28 Cal. App. 4th at 1468.) Plaintiff has offered no compelling reason to compel the testimony of Chief Gross.

#### E. Appearance of Harassment

Unless Plaintiff is able to demonstrate a compelling reason for subpoenaing Chief Gross, it appears that Plaintiff is continuing his course of harassment against Chief Gross. As evidenced in Chief Gross' declaration, Chief Gross has received 385 emails from Plaintiff in less than a six-month period. (Decl. of Chief Gross, Para. 8.)

//

III.

#### CONCLUSION

For the reasons set forth above, the County of Santa Barbara respectfully requests that the Court quash Petitioner's Subpoena.

Dated: June 13, 2016

MICHAEL GHIZZONI

Michelle Montez

**Deputy County Counsel** 

Attorneys for Santa Barbara

Sheriff's Office

COUNTY COUNSEL County of Santa Barbara 105 East Anapamu Street Santa Barbara. CA 93101 (805) 568-2950

MICHAEL GHIZZONI, COUNTY COUNSEL 1 MICHELLE MONTEZ, DEPUTY (SBN 202989) SCOTT GREENWOOD, DEPUTY (SBN 266256) 2 COUNTY OF SANTA BARBARA 105 E. Anapamu St., Suite 201 Santa Barbara, CA 93101 3 (805) 568-2950 / FAX: (805) 568-2982 4 Attorneys for Santa Barbara Sheriff's Office 5 6 7 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA 9 FOR THE COUNTY OF SANTA BARBARA 10 ANACAPA DIVISION 11 12 Case No: 15cv02604 JEREMIAH W. BALIK, 13 Plaintiff 14 DECLARATION OF SAMUEL D. ٧. GROSS, CHIEF DEPUTY, IN 15 SUPPORT OF MOTION TO **OUASH** 16 Date: June 17, 2016 HALF MOON HOTEL, FRANK 17 Time: 8:30 a.m. WEISER COUNSEL, Dept.: 5 18 Defendants. 19 20 I, SAMUEL D. GROSS, declare: 21 I have personal knowledge of the following facts, and if called as a witness, can 1. 22 and will competently testify to them under oath. 23 I am employed by the County of Santa Barbara Sheriff's Office as a Chief 2. 24 Deputy. 25 As Chief Deputy, I report directly to the Undersheriff and I oversee 3. 26 approximately 250 hundred sworn deputies and approximately 55 non-sworn

COUNTY COUNSEL
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93 101
(805) 568-2950
28

employees.

COUNTY COUNSEL

- 4. On or about September 20, 2015, Mr. Balik came to the Santa Barbara Sheriff's Office. I spoke with Mr. Balik for about 30 to 40 minutes in the Sheriff's Office reception area regarding his complaint about two Sheriff's Office deputies (court bailiffs) who assisted the County Recorder in escorting Mr. Balik out of the Recorder's Office. I gave Mr. Balik my business card which included my email.
- 5. After I spoke with Mr. Balik, I looked into the concerns he raised and confirmed that the deputies acting within policy and procedure.
- 6. I do not recall speaking in person or by telephone with Mr. Balik after this interaction on September 20, 2015.
- 7. At some point thereafter, I began receiving emails from Mr. Balik; however, the first email that I saved is from January 27, 2016.
- 8. From January 27, 2016 to June 12, 2016, I have received 385 emails from Mr. Balik.
- 9. These emails mostly appear to be "re-tweets" and notifications of court filings.
- 10. I reviewed the Deposition Subpoena issued by Mr. Balik, including the written description and title of the civil litigation, and I have no personal knowledge of the matters described by Mr. Balik.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of June, 2016, in Santa Barbara, California.

Samuel D. Gross

COUNTY COUNSEL
County of Santa Barbara
105 East Anapanus Street
Santa Barbara, CA 93101
(805) 568-2950

#### PROOF OF SERVICE

(C.C.P. §§ 1013(a), 2015.5)

#### STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street # 201, Santa Barbara, California.

On June 13 2016, I served a true copy of the NOTICE OF MOTION AND MOTION TO QUASH PLAINTIFF'S DEPOSITION SUBPOENA; POINTS AND AUTHORITIES within on the Interested Parties in said action by:

- 0							
	transmission via facsimile to the person(s) indicated below:						
	transmission via electronic mail to the person(s) indicated below:						
☑ there	depositing it in the United States Mail in a sealed envelope with postage reon fully prepaid to the following:						
	Jeremiah W. Balik 1223 Wilshire Blvd., #777 Santa Monica, CA 90403						
$\square$	(State) I declare, under penalty of perjury, that the above is true and correct.						
□ this C	(Federal) I declare that I am employed in the office of a member of the Bar of Court at whose direction the service was made.						
	Executed on June 12, 2016, at Santa Barbara, California.						

County of Santa Barbara
105 East Anapamu Street
Santa Barbara COUNTY COUNSEL Santa Barbara, CA 93101

(805) 568-2950

1 2 3	MICHAEL GHIZZONI, COUNTY COUNSEL MICHELLE MONTEZ, DEPUTY (SBN202989) SCOTT GREENWOOD, DEPUTY (SBN 266256) COUNTY OF SANTA BARBARA 105 E. Anapamu St., Suite 201 Santa Barbara, CA 93101 (805) 568-2950 / FAX: (805) 568-2982								
5	Attorneys for Santa Barbara Sheriff's Office								
6	Audincys for Sama Darbara Sheriff & Office								
7									
8									
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA								
	FOR THE COUNTY OF SANTA BARBARA								
10									
11									
12	JEREMIAH W. BALIK,	Case No: 15CV02604							
13	Plaintiff	[Assigned for all purposes to the Honorable James Herman, Department 1]							
15	V.	COUNTY OF SANTA BARBARA'S							
16	·	OBJECTION TO PLAINTIFF'S DEPOSITION SUBPOENA							
17	HALF MOON HOTEL, FRANK	Date: June 17, 2016							
18	WEISER COUNSEL,	Time: 8:30 a.m. Location: SBSC, 1100 Anacapa Street,							
19	Defendant.	Santa Barbara, CA 93101							
20									
21									
22	TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:								
23	PLEASE TAKE NOTICE that COUNTY OF SANTA BARBARA ("County")								
24	hereby objects to Plaintiff Jeremiah W. Balik Deposition Subpoena for Personal								
25	Appearance and Production of Documents and Things ("Deposition Subpoena")								
26	directed at Samuel D. Gross, Santa Barbara Sheriff's Office Chief Deputy.								
27 10 28	1. County objects to Plaintiff's Deposition Subpoena on the grounds that it								

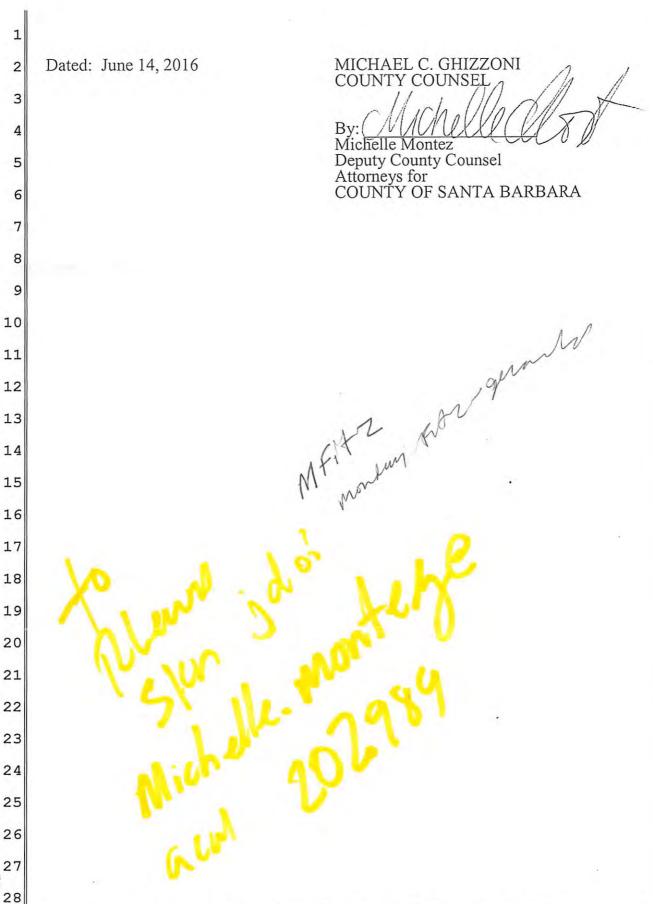
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COUNTY COUNSEL County of Santa Barbara 27 105 East Anapamu Stree Santa Barbara, CA 93101 (805) 568-2950 28

does	not	comply	with	the	service	requirements	of	Code	of	Civil	Procedure	Section
2020	.220											

- County objects to Plaintiff's Deposition Subpoena on the grounds that it 2. Plaintiff improperly noticed the Subpoena as a Deposition Subpoena as opposed to a Subpoena to compel a non-party's attendance at a trial or hearing.
- County objects to Plaintiff's Deposition Subpoena on the grounds that Plaintiff 3. did not remit witness fees to the County pursuant to Government Code § 68097.2.
- 4. County objects to Plaintiff's Deposition Subpoena on the grounds that Chief Gross has no personal knowledge of the events related to the litigation at hand and his testimony would not likely produce relevant evidence.
- County objects to Plaintiff's Deposition Subpoena on the grounds that Chief 5. Gross is a high-ranking public official and there is no compelling reason to require his testimony.
- County further objects to Plaintiff's Deposition Subpoena in that it is overbroad and does not reasonably particularize the subject matter.
- 7. County objects to Plaintiff's Deposition Subpoena on the grounds that it is vague, ambiguous, and overbroad.
- 8. County objects to Plaintiff's Deposition Subpoena on the grounds that it lacks foundation.
- 9. County objects to Plaintiff's Deposition Subpoena on the grounds that it is burdensome, harassing, and not calculated to lead to the discovery of admissible evidence.



COUNTY COUNSEL
County of Santa Barbara 2 7
105 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2950 28

#### PROOF OF SERVICE

(C.C.P. §§ 1013(a), 2015.5)

#### STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street # 201, Santa Barbara, California.

On June 14, 2016, I served a true copy of the COUNTY OF SANTA BARBARA'S OBJECTION TO PLAINTIFF"S DEPOSITION SUBPOENA; POINTS AND AUTHORITIES within on the Interested Parties in said action by:

- transmission via facsimile to the person(s) indicated below: V
- transmission via electronic mail to the person(s) indicated below:
- depositing it in the United States Mail in a sealed envelope with postage thereon fully prepaid to the following:

Jeremiah W. Balik 1223 Wilshire Blvd., #777 Santa Monica, CA 90403 Fax No. (805) 642-7177

- $\sqrt{\phantom{a}}$ (State) I declare, under penalty of perjury, that the above is true and correct.
- (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on June 14, 2016, at Santa Barbara, California.

26 COUNTY COUNSEL County of Santa Barbara 05 East Anapamu Street Santa Barbara, CA 9310

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Anthony P. Condotti, City Attorney (SBN 149886) Barbara H. Choi, Deputy City Attorney (SBN 156088) ATCHISON, BARISONE, CONDOTTI & KOVAĆEVICH A Professional Corporation **PO BOX 481** Santa Cruz, California 95061-0481 Telephone: (831) 423-8383 5 Facsimile: (831) 576-2269 6 Attorneys for Respondent 7 CITY OF SANTA CRUZ POLICE CHIEF KEVIN VOGEL 8 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA 10 FOR THE COUNTY OF SANTA BARBARA 11 Case No. 15CV02604 JEREMIAH W. BALIK, 12 Plaintiff, 13 CITY OF SANTA CRUZ POLICE CHIEF VS. 14 **KEVIN VOGEL'S OPPOSITION TO** PLAINTIFF'S MOTION TO COMPEL HALF MOON HOTEL, et al., 15 **TESTIMONY; DECLARATION OF** POLICE CHIEF KEVIN VOGEL IN Defendants. 16 SUPPORT OF OPPOSITION 17 Date: July 20, 2016 18 Time: 9:30 a.m. Dept.: 1 19 Judge: Hon. James E. Herman 20 21 22 PRELIMINARŸ STATEMENT 23 City of Santa Cruz Police Chief Kevin Vogel ("Police Chief Vogel") objects to Plaintiff Jeremiah 24 Balik's attempt to compel his testimony, a nonparty, to appear at a deposition and produce records. 25 Police Chief Vogel, files this opposition on the following grounds: 26 1) Police Chief Vogel was never personally served with the deposition subpoena; 27 2) The deposition subpoena is improper since it exceeds the geographic limit; and 28 CITY OF SANTA CRUZ POLICE CHIEF KEVIN VOGEL'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL TESTIMONY; DECLARATION OF POLICE CHIEF KEVIN VOGEL

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3) There is no factual basis for seeking the testimony and documents from Police Chief Vogel.

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SUBPOENA IS DEFECTIVE AND CANNOT COMPEL
TESTIMONY OR PRODUCTION OF DOCUMENTS FROM POLICE CHIEF VOGEL

A testimony and records subpoena must be served personally. Code of Civil Procedure §1987(a); §2020.220(b)-(c). A subpoena for a deposition is also subject to a geographic limit of 75 miles from the deponent's residence or if taken in the county where the action is pending - - it has to occur within 150 miles from deponent's residence. Code of Civil Procedure § 2025.250(a).

Where a peace officer is sought to be subpoensed on matters investigated in the course of his or her official duties, the public entity must be reimbursed for the officer's salary and travel expenses and the party requesting the subpoens must tender to the person accepting the subpoens \$275 for each day the officer's presence is required. Gov't. Code § 68097.2(b); Nick v. Dep't of Motor Vehicles. 12 Cal. 4th 1407, 1415 (1993) (subpoens properly refused absent tender of required fee).

In the present case, Plaintiff appears to have improperly served Police Chief Vogel by overnight mail, as evidenced by Plaintiff's proof of service which references overnight delivery and a UPS tracking number. Police Chief Vogel never received personal service of the subpoena or any witness fees. (Declaration of Police Chief Kevin Vogel at ¶2.) The subpoena is also improper in requiring testimony in Santa Barbara County, more than 150 miles from the City of Santa Cruz.

Further, there is absolutely no evidence warranting the testimony of Police Chief Vogel in this matter. Plaintiff seeks information about an alleged incident on or about April 24, 2016, but Plaintiff concedes in his email, which is attached to his motion to compel, that "Santa Cruz PD was never in attendance." (Plaintiff's email dated May 31, 2016). The Santa Cruz Police Department has no record of any investigation, incident or contact involving Plaintiff in the City on or about April 24, 2016 or at any other date. (Declaration of Police Chief Kevin Vogel at ¶¶ 3-4). There is no basis to seek Police Chief Vogel's testimony and records even if Plaintiff merely alleges that he saw Santa Cruz police vehicles in the Santa Cruz area.

#### III. CONCLUSION

Police Chief Vogel objects to Plaintiff's motion to compel due to the absence of any basis to seek his testimony and records in this matter, in addition to the procedural defects relating to the service of the subpoena. Police Chief Vogel requests that this Court deny Plaintiff's motion, and also quash the defective subpoena.

Dated: June 29 , 2016

ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

BARBARA H CHOL

Attorneys for CITY OF SANTA CRUZ and POLICE CHIEF KEVIN VOGEL

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#### DECLARATION OF POLICE CHIEF KEVIN VOGEL

- I, Kevin Vogel, declare follows:
- I am currently employed by the City of Santa Cruz as the Police Chief of the Santa Cruz
  Police Department, and have served in this capacity for almost six years, since 2010.
- I am not a party to this action. I have never been personally served with a subpoena in this
  matter. I was also never offered or accepted any witness fees relating to a subpoena for my
  testimony and production of records.
- 3. I have reviewed the police records, which are kept in the ordinary course of business by the police department, and have determined that there was no investigation or activity or contact by this police department that involved Plaintiff Jeremiah W. Balik on or about April 24, 2016 or at any other time.
- 4. I have no information relating to any matters concerning Plaintiff in this action or any other.

I declare under penalty of perjury under the laws of the State of California that the foregoing facts are true and correct and if called as a witness I could, I would, testify thereto.

I further declare that I am executing this declaration in Santa Cruz, California on July \_\_\_\_, 2016.

KEVIN VOGEL

Police Chief for the City of Santa Cruz

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Jeremiah W. Balik v. Half Moon Hotel, et al. Santa Barbara County Superior Court Case No. 15CV02604

#### PROOF OF SERVICE

I am employed in the County of Santa Cruz, State of California. I am over the age of eighteen years and not a party to the within action. My business address is Atchison, Barisone, Condotti & Kovacevich, P.O. Box 481, Santa Cruz, California 95061. On the date set forth below, I served the following document(s):

CITY OF SANTA CRUZ POLICE CHIEF KEVIN VOGEL'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL TESTIMONY; DECLARATION OF POLICE CHIEF KEVIN VOGEL IN SUPPORT OF OPPOSITION

on the interested party(ies) to said action by the following means:

- (BY MAIL) By placing a true copy thereof, enclosed in a sealed envelope, with postage thereon [X] fully prepaid, for collection and mailing on that date following ordinary business practices, in the United States Mail at the offices of Atchison, Barisone, Condotti & Kovacevich, Santa Cruz, CA, addressed as shown below. I am readily familiar with this firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and in the ordinary course of business, correspondence would be deposited with the U.S. Postal Service the same day it was placed for collection and processing.
- (BY HAND-DELIVERY) By causing a true copy thereof, enclosed in a sealed envelope, to be delivered by hand to the address(es) shown below.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 7, 2016, at Santa Cruz, California.

#### NAME AND ADDRESS AND/OR FAX NUMBER OF EACH PARTY SERVED:

Jeremiah W. Balik 1223 Wilshire Blvd., #777 Santa Monica, CA 90403

In Pro Per

Frank A. Weiser 3460 Wilshire Blvd #1212 Los Angeles, CA 90010

Attorneys for Defendant HALF MOON HOTEL

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